

D I G E S T S
OF THE
GENERAL HIGHWAY
AND
TURNPIKE LAWS;

WITH THE
SCHEDULE OF FORMS,
As Directed by ACT of PARLIAMENT;
AND REMARKS.

ALSO,
AN APPENDIX,
ON THE
Construction and Preservation of ROADS.

By JOHN SCOTT, Esq;

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TO THE
GENTLEMEN TRUSTEES
OF THE
SEVERAL TURNPIKES
OF
CHESHUNT, WADESMILL,
AND WATTON,
IN THE COUNTY OF HERTFORD,
THE FOLLOWING WORK
IS RESPECTFULLY INSCRIBED,
B Y
THEIR FRIEND AND BROTHER TRUSTEE,

Amwell,
1778,

THE AUTHOR.

TO THE

GENTLEMEN

OF THE

SENATE

AND HOUSE OF REPRESENTATIVES

OF THE

UNITED STATES

OF AMERICA

IN SENATE

AND HOUSE

OF REPRESENTATIVES

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UNITED STATES

OF AMERICA

ADVERTISEMENT.

THE Author of the following Work having frequent Occasion to consult the General Highway Act, he found the Matter contained therein distributed in such a Manner, as caused him no small Degree of Perplexity. *In one Place* he met with general positive Directions, which he depended on as authentic Rules of Conduct; till he perceived, that in *another*, they were counteracted by particular Exceptions; and, not unfrequently, he saw Subjects, closely allied in their Nature, removed almost as far from each other as the utmost Limits of the Act would permit. Regard to his Convenience prompted him to arrange these disjointed Clauses in regular Order; and a Wish to contribute to the Ease of others, by rendering the Intention of the Legislature more intelligible, determined him to communicate what he had done to the Public. The favourable Reception his Essay obtained, he thinks a sufficient Apology for reprinting it, with such Improvements as have been pointed out to his Notice. He has now added to it a DIGEST of all the General Acts

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now in force, respecting Turnpikes; with REMARKS; and an APPENDIX ON THE CONSTRUCTION AND PRESERVATION OF ROADS: and he hopes the Whole will prove a useful Manual to Magistrates, Trustees, Surveyors, and all other Persons concerned in the Matters whereon it treats.

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E R R A T A.

Page 164, l. 7. *for* 14 Geo. III. *read* 13 Geo. III.
 177, l. 24. *for* § 66, *read* § 65.
 l. 29. *for* § 46, *read* § 45.
 214, l. 12. *for* c. 31, *read* c. 36.
 315, Note, l. 2. *for* Twenty-eighth *read*
 Eighteenth.
 ——— l. *penult.* *for* 196, *read* 195.

The above Mistakes being of Importance, as Matters of Fact, the Reader is desired to correct them with his Pen. What few verbal Errors, of less Consequence, have escaped, are as follow.

Page 43, Marginal Note, *for* Owners, *read* Owner.
 159, l. 1. *for* does, *read* do.
 251, l. 6. *for* which, *read* as.
 253, l. 3. and 4. *for* Carriages can be weighed only when coming one Way, *read*, Carriages can return to be weighed only when going one Way.
 277, Note, l. 7. *for* ezplain, *read* explain.
 279, l. 11 and 12. *for* can be invented, *read*, can be recollected and invented.
 286, l. 3. *for* attendant, *read* antecedent.
 298, l. 26. *for* enable, *read* enabled.
 302, l. 20. *for* his Driver had committed no other Offence against the Act, or indeed any Impropriety whatever, *read*, and driving that Cart was the sole Offence his Servant had committed.
 304, l. 28. *for* in, *read* by.
 322, l. 11. *for* several more of, *read*, several of.
 347, l. 13. *for* he hoped, *read*, be hoped.

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C H A P T E R I.

Nomination and Appointment, &c. of Surveyors.

SECTION I. **A** PUBLIC Meeting Meeting for No-
mination. of the Constables, Churchwardens, Surveyors, and Householders, is to be annually held in every Parish on the 22d of *September*, unless that Day be *Sunday*, and then on the 23d, at Eleven in the Forenoon; and a List is to be made of Ten Persons, Inhabitants, Owners of Real Estates of 10*l. per Ann.* or Personal Estates of 100*l. Value*, or Occupiers of 30*l. per Ann.* and if such cannot be found, then of the other most reputable Inhabitants of the Parish. 13 Geo. III. c. 78. § 1.

II. A Duplicate of this List is to be Delivery of Lists,
&c. delivered by the Constable to some neighbouring Justice within Three Days after the Meeting, and the Original produced at a Special Sessions to be held for the Highways of the Limit in the Week

B

next

next after the *Michaelmas* Quarter Sessions in every Year. The Constable must also give Notice to the Persons on the List within Three Days after it is made, in order that they may attend at the Sessions to accept the Office, if appointed thereto, or to shew Cause against being so appointed. § 1.

Notice of Sessions.

III. The Justices are to give Ten Days Notice to the Constables, &c. of the Time and Place of holding their Sessions. § 1.

Appointment.

IV. The Justices are to appoint Surveyors from the List, if they shall judge the Persons nominated therein to be qualified, otherwise from other substantial Inhabitants, or Occupiers of Premises in the Parish, residing within Three Miles thereof. When Two or more Surveyors are appointed for One Parish, they are all comprehended in this Act under the Word Surveyor. § 1. § 5.

Notice of the Appointment.

V. The Appointment is to be notified by the Constable to the Person appointed, within Three Days after it is made, by leaving the Warrant of Appointment, or a true Copy of it, at his House. § 1.

Persons on the List not appearing forfeit 5 l.

VI. Persons on the List, served with Notice, and not appearing at the Sessions to accept the Office if appointed thereto; or otherwise not signifying their Acceptance of it to One of the Justices, with-

in

in Six Days after receiving the Warrant of Appointment, forfeit 5*l.*; and Persons not on the List, appointed, and refusing or neglecting to serve, and not shewing to One of the Justices who signed the Appointment, sufficient Cause for their Refusal or Neglect, within Six Days after their being served with the Appointment, forfeit 50*s.* § 1.

Persons not on the List appointed, and refusing to serve, forfeit 50*s.*

VII. If no List be made, or the Persons appointed refuse to serve, the Justices at the same or a subsequent Sessions, held within a month after, may appoint another Person with a Salary, to be paid out of the Forfeitures aforesaid, and the other Forfeitures, Compositions, and Assessments herein after mentioned, not exceeding One Eighth Part of the Amount of a Sixpenny Rate. The Justices may require the Constables, Surveyors, &c. to return to them an Account in Writing of the Sum which a Sixpenny Rate hath raised, or, in their Opinion, will raise in the Parish. § 1.

Justices may appoint a Surveyor with a Salary,

VIII. If in Case of the Persons appointed refusing to act, the Justices shall appoint another Surveyor with a Salary; they are also to appoint a substantial Inhabitant Assistant to such Surveyor; and such Assistant refusing to accept the Office shall forfeit 50*s.* and the Justices shall appoint another Inhabitant in his

And an Assistant Surveyor, who, refusing to serve, forfeits 50*s.*

stead, and if he also refuse to serve, he shall forfeit 50s. and a Third Inhabitant shall be appointed, who shall be intitled to both the Forfeitures above mentioned, and an additional Salary out of the other Forfeitures, Compositions, &c. at the Discretion of the Justices. § 2.

Assistant Surveyor's Duty.

IX. The Assistant Surveyor is to assist in attending the Performance of the Statute Duty, in collecting the Compositions, Forfeitures, &c. and is to account to the Surveyor for all Money which shall come to his Hands as Assistant, under Penalty of forfeiting double the Money by him received. The Surveyor is required to send Orders in Writing upon the Assistant, for the Payment of all Sums due for Work, &c. amounting to 40s. or upwards; and the Surveyor is not to be responsible for any Sums which shall be received by the said Assistant, and shall not be paid to him or to his Order. § 4.

Assistant, in Default of Duty, forfeits from 5s. to 40s.

X. The Assistant Surveyor, in Case of wilful Neglect or Default of Duty, shall forfeit for every Offence a Sum not exceeding 5l. nor less than 40s. at the Discretion of the Justices. § 4.

Surveyors, appointed by the Justices, if non-resident, must give Bond if required.

XI. Surveyors, appointed by the Justices, with Salaries, and not residing in the Parish for which they are appointed, within Fourteen Days after their Appointment, shall give Bond on Paper, with-

without Stamps (if so required by the Churchwarden, Overseer, or principal Inhabitant thereof), to account for all Money which shall come to their Hands, according to Direction of the Act. The Person to whom Bond is to be given must be nominated by the Justices. § 3.

XII. Two Parts out of Three of the Persons assembled at the annual Parish Meeting, of *September 22d*, may agree in the Choice of a Person for Surveyor, and on a Salary to be allowed him for his Trouble, and may return his Name, with the List aforesaid, to the Special Sessions, where the Justices, if they think proper, may appoint him Surveyor, and allow his Salary, which shall be raised and paid in the same Manner with the Salary before mentioned. § 5.

Parish Meeting of Septem. 22d, may chuse a Surveyor, and return his Name to the Sessions.

XIII. No Salaries are to be allowed by the Justices of any City, Town Corporate, or Borough, to Surveyors appointed by them for any Parish, &c. within such City, &c. except such Salary shall be settled and agreed on by Two Parts out of Three of the Persons assembled at the Parish Meeting. § 54.

Direction respecting Salaries of Surveyors in Cities and Boroughs.

XIV. In Case of the Surveyor's Death, or becoming incapable of executing his Office, the Justices, at their Special Sessions, may appoint another, and allow

In Case of Surveyor's Death, Justices may appoint another.

him a Salary, in Case his immediate Predecessor had one. § 5.

Persons who have served, not liable for Three Years.

XV. No Person who has served the Office of Surveyor, or Assistant Surveyor, for One Year, is liable to be appointed again within Three Years without his own Consent. § 1.

Surveyor, in default of Duty, forfeits from 5l. to 10s.

XVI. Surveyors neglecting their Duty in any Thing required of them by the Act, for which no particular Penalty is imposed, forfeit a Sum not exceeding 5l. nor less than 10s. at Discretion of the Justices. § 50.

Parish officers not making Lifts forfeit 40s.

XVII. Constables, Churchwardens, and Surveyors, not making and returning Lifts as aforesaid, or neglecting or refusing to give such Notice, or serve such Warrants of Appointment, &c. or to return an Account of the Amount of a Sixpenny Assessment as aforesaid, every such Constable, Churchwarden, or Surveyor, shall, for every such Default, forfeit the Sum of 40s. respectively. § 1.

CHAP. II.

Surveyor's Care of the Roads, Removal of Obstructions, Nuisances.

Width of Cartways leading to Market Towns, &c.

SECTION I. **C**ARTWAYS leading to Market Towns are to be made Twenty Feet wide, and other public

public Drift or Horse-Ways Eight Feet wide, if the Ground between the Fences will admit thereof. § 15.

II. The Possessors of Land adjoining to Highways are to cut, prune and plash their Hedges, and to cut down or lop their Trees growing in or near such Hedges (Trees planted for Ornaments or Shelter to the House, Building or Court-Yard of the Owner, excepted), in such Manner that the Highways may not be prejudiced by the Shade thereof, within Ten Days after Notice given to them for that Purpose by the Surveyor; and in case of their neglecting to do so, the Surveyor is to make Complaint to a Justice of the Limit, who is to summon the Party neglecting before the Special Sessions, to answer the Complaint, and (after hearing both Parties, or, in Case of Default of the Neglector's Appearance, on Proof of the Service of the Summons) if it shall appear that the Directions of this Act have not been complied with, the Justices may order the Hedges to be cut or plashed, and the Trees to be cut down or lopped; and if such Order is not obeyed by such Possessor within Ten Days after he has had Notice thereof, he is to forfeit Two Shillings for every Twenty-four Feet of Hedge neglected to be cut or plashed, and Two Shillings for

Possessors of
Land adjoining
to Roads to cut
down or lop
their Trees, &c.
on Notice from
Surveyor.

every Tree neglected to be cut down or lopped; and the Surveyor is to cut and plash such Hedges, and cut down or lop such Trees in the Manner directed by such Order: and the Possessor shall pay, over and above the said Penalties, the Charges of doing the same; which Charges, together with the said Forfeitures, shall, on Refusal of Payment, be levied on his Goods by Warrant from one Justice. § 7.

And make and
cleanse their
Ditches, &c.

III. Ditches, Drains, Water-Courses of sufficient Breadth and Depth, and Trunks, Tunnels or Bridges for Cart-Ways, Horse-Ways and Foot-Ways, are to be made and kept in Repair by the Occupiers of the Lands adjoining to the Road; and Drains crossing other Lands to convey Water from the Highway are to be kept open and in Repair by the Occupiers of such Lands; and every Person making Default in any of the Respects aforesaid, after Ten Days Notice from the Surveyor, to make or repair such Ditches, &c. as above mentioned shall forfeit for every Offence Ten Shillings. § 8.

Surveyor's View
of the Highway.

IV. The Surveyor is to take a View of all Highways, &c. within his District, and on finding Nuisances, Incroachments, Obstructions or Annoyances, is to give to the Person making

or permitting the same, personal Notice, or Notice in Writing to be left at his House, specifying the Particulars wherein such Nuisances, Defaults, &c. consist; and if such Nuisances, Obstructions, &c. are not removed and the Ditches, Drains and Water-Courses effectually made, or cleansed and opened, and the Trunks, Tunnels and Bridges, made and laid, and the Hedges properly cut and pruned within Twenty Days after such Notice of the same respectively given as aforesaid, the Surveyor is impowered and authorized to remove the Obstructions, Nuisances, &c. to make, open and cleanse the Ditches, &c. and to cut and prune the Hedges; and the Person neglecting to make or open such Ditches, or to cut and prune such Hedges, shall forfeit for every Foot in Length neglected the Sum of One Penny; and the Surveyor shall be reimbursed the Expences of performing the said Duties of removing, cleansing and cutting, by the Persons who should have performed the same, over and above the said Forfeiture.—And if Payment of the Charges and Forfeitures be refused, the Surveyor is to apply to a Justice, and make an Oath that Notice has been given to the Defaulter in Manner aforesaid, and that the Work has been done by him the said Surveyor, and also of
the

the Expences of doing the same; and all such Charges as shall be allowed to be reasonable by the said Justice shall be repaid by the Defaulter; or, on Refusal or Neglect of Payment thereof, on Demand, shall be levied upon him in the Manner that the other Penalties directed by this Act are ordered to be levied. § 12.

No Trees to stand
or be planted in
Highways with-
in 15 Foot of the
Centre.

V. No Tree, Bush or Shrub (except such as are planted for Ornament to Houses, Court-Yards, &c.), is to be permitted to stand in any Highway within Fifteen Foot of the Centre thereof, or to be planted within that Distance, under the Penalty of Ten Shillings, to be forfeited by the Owner or Occupier of the Land, after Ten Days Notice given to them by the Surveyor, to remove the same*. § 6.

Time of cutting
Hedges, felling
Trees, &c.

VI. No Hedge is to be cut or pruned, except between the last Day of *September* and the last Day of *March*. No Timber Trees growing in Hedges are to be felled at any Time, except where the Roads are ordered to be enlarged in the Manner herein after mentioned. No Oak Trees are to be cut down or grubbed up except in *April*, *May* and *June*; nor *Ash*, *Elm*, or other Trees, except in *December*, *January*, *February* and *March*. § 13.

VII. When the old Ditches, Water-

* Vide Remark on this Section.

Courfes,

Courses, &c. are insufficient, the Surveyor, by Order of One or more of the Justices, may make new Ones through any Lands where they may be necessary, making and keeping in Repair proper Trunks, Bridges, Arches, &c. over the same, and making Satisfaction to the Owner or Occupier of such Lands (not being Waste or Common), for the Damage done thereto. Such Satisfaction to be settled and paid as the Damages for getting Materials in inclosed Lands, are herein after directed to be settled and paid. § 14.

VIII. Stone, Timber, Straw, Dung, the Soil from scouring of Ditches or other Matter being laid or left in any Highway, if the Person laying or leaving it does not remove it within Five Days after Notice thereof given by the Surveyor, he shall forfeit for every Offence Ten Shillings *. § 9.

IX. If Stone, Timber, Hay, Straw, Stubble, or other Matter for making Manure, or on any other Pretence whatsoever, be laid in any Highway within Fifteen Feet of the Centre thereof, and be not removed within Five Days after Notice from the Surveyor, or other Person aggrieved; the Owner of the adja-

Surveyors, by Order of Justices, may make new Ditches.

Obstructions in Highways, Persons making them forfeit 10s.

Obstructions may be removed by Order of a Justice.

* Vide Remark on this Section.

cent Lands, or any other Person, by Order of a Justice, may remove the same, and appropriate it to his own Use. § 10.

Penalty on setting or leaving Waggon, &c. in the Road.

X. Any Waggon, Cart, Carriage, Plough, or other Instrument of Husbandry, being set or left in any Highway, except while such Waggon, Cart or Carriage, shall be loading, the Person setting or leaving the same shall forfeit, for every Offence, Ten Shillings.

§ 11.

Incroachments on Highways how to be punished.

XI. Persons incroaching on Highways, by making Hedges, Ditches or other Fences on Highways not being Turnpike Road within Fifteen Feet from the Middle thereof, or ploughing up any Ground, or in ploughing or harrowing the adjacent Lands, turning their Ploughs within Fifteen Feet of the Middle of such Highways, where the Breadth thereof is formed and marked, or can be described with Certainty, and does not exceed Thirty Feet, shall forfeit, for every such Offence, Forty Shillings to the Person making Information of the same. And the Surveyor may cause such Hedge, Ditch, &c. to be taken down or filled up at the Expence of the Person to whom it belongs. And One or more Justice or Justices of the Limit, may, on Proof of the Circumstances upon Oath, levy the said Expences, as well

as

as the Penalty above mentioned, by Distress on the Goods of the Offender. § 63.

XII. The Justices, at their Special Sessions, shall give Order to the Surveyor to erect Direction Posts and graduated Posts, to shew the Depth of Floods, where necessary. The Surveyor neglecting to execute such Order for Three Months, after it is directed and delivered to him, shall forfeit 20s. § 26.

Direction Posts,
Graduated Posts,
&c.

C H A P. III.

Provision of Materials.

SECTION I. **T**HE Surveyor may take Rubbish or refuse Stones from Quarries within his own Parish (except such as have been got by Surveyors of Turnpike Roads), and may search for and dig Gravel, Chalk, Stones, &c. in Waste or Common Ground, Rivers or Brooks, in his own Parish; and if sufficient cannot be found there, then in the like places in any other Parish, provided he leaves sufficient for the Use of such other Parish. No Satisfaction is to be made for such Materials, but only for Damage done to Lands in carrying them away. § 27.

Materials on
Waste Grounds,

II. The

Picking Stones.

II. The Surveyor may pick or gather Stones upon any Lands or Grounds within his Parish, without making any Satisfaction for them, but Satisfaction must be made for Damage done by carrying them away ; but such Stones must not be gathered without the Consent of the Occupier of such Lands or Grounds, or a Licence from a Justice, after having summoned such Occupier to come before him, and heard his Reasons, if he shall appear and give any, for refusing his Consent. But nothing in this Act, relative to the gathering or getting of Stones, is to extend to Land being private Property, covered with Stones thrown up by the Sea, commonly called Beach. § 27. & 28.

Materials in inclosed Grounds.

III. The Surveyor (in case Materials cannot be procured in Waste Grounds, &c.) may search for and dig Gravel, Chalk, &c. in any Several or inclosed Grounds within his Parish ; or by Licence from Two Justices at their Special Sessions, in any Several or inclosed Lands within any other Parish, &c. adjoining to, or lying near the Road for which such Materials are wanted, if it shall appear to such Justices that sufficient cannot conveniently be had elsewhere, and that sufficient will remain for the Use of such other Parish. Such Satisfaction is

is to be made for the Damage done to such Grounds, by getting and carrying away such Materials, as shall be agreed on between the Surveyor and the Owner, Occupier, or other Person interested in such Grounds respectively, in the Presence, and with the Approbation of Two substantial Inhabitants of such Parish, &c. and in case they cannot agree, the Satisfaction shall be settled and ascertained by Order of One or more Justice or Justices of the Limit where the Land shall lie *.

§ 29.

IV. When other Materials are wanting, the Surveyor may dig Clay in such Places as those wherein he is directed to dig other Materials, and may dry it upon the adjoining Lands, and burn it upon any Waste or Common Grounds, and may carry the same away, making such Satisfaction for the Damages in the inclosed Grounds, where such Clay may be placed or carried, as is directed for other Materials. § 29.

V. If the Owner of any inclosed Lands shall have Occasion for the Materials lying within the same, for the Repair of any Highway or other Road or Way upon his Estate, or which he is under Obligation to repair, and shall give No-

Digging and
burning Clay.

Owner of inclo-
sed Grounds
wanting Mate-
rials himself, &c.

• Vide Remark on this Section.

tice

tice to the Surveyor that he apprehends there will not be enough for those Purposes, and also for the Use of the Public Highways, in such Case the Surveyor shall not be permitted to dig or take such Materials without the Consent of the Owner, or an Order of Two Justices, after having summoned and heard the Owner or Occupier, or his Steward or Agent; and the Justices are authorized to inquire into the Nature of the Case, and permit or restrain the Power of the Surveyor in such Manner as to them shall seem just. § 29.

Surveyor not to
divert Rivers,
damage Bridges,
&c.

VI. The Surveyor, in getting Materials, is not to divert the Course of any River or Brook, or dig or get Materials within 100 Feet above or below any Bridge, Dam, or Wear: And in case of his damaging Bridges, Mills, Buildings, Dams, Highways, Fords, Mines, or Tin-Works, he shall forfeit for each Offence a Sum not exceeding 5*l.* nor less than 2*s.* at the Discretion of the Justices. § 33.

No Materials to
be dug in Gar-
dens, &c.

VII. No Materials are to be dug in any Garden, Yard, Avenue, Lawn, Park, Paddock, or inclosed Plantation. § 29.

Time of remo-
ving Materials.

VIII. Materials dug in any other Parish but that where they are to be used, are not to be removed at any Time but between the 1*st* of *April* and the 1*st* of
of

of *November*, or in Time of hard Frost.

§ 32.

IX. If the Surveyor shall make any Pit or Hole in searching for Materials, and no such Materials be found, he shall, within Three Days from opening the same, cause it to be filled up, levelled, and covered with the Turf taken out of the same; and if Materials be found, he shall forthwith cause the Pit or Hole to be fenced off, and keep the Fence in Repair during the Time the Pit shall continue open; and within Fourteen Days after having dug up sufficient Materials in such Pit or Hole, he shall cause the same to be filled up, sloped down, or fenced off, and so continued. And every Surveyor, within Twenty Days after he shall be appointed to the Office, shall cause all Pits and Holes which shall then be open, and not likely to be further useful, to be filled up or sloped down; and all which are likely to be further useful, to be secured with Posts and Rails, or other Fences, to prevent Accidents to Persons or Cattle. The Surveyor neglecting to fill up, slope down, or fence off such Pit or Hole, within the Time aforesaid, shall forfeit for every Default Ten Shillings, and neglecting to fence off or slope down such Pit or Hole for Six Days after he has received

Fencing and filling up Gravel Pits, &c.

ceived Notice for that Purpose, from any Justice, or Owner or Occupier of such several Ground, River, &c. or Person having a Right of Common within such Waste Lands as aforesaid, shall, on Proof upon Oath, of such Neglect and Notice, before One or more Justice or Justices, forfeit and pay any Sum not exceeding 10*l.* nor less than 40*s.* to be applied in the filling up or securing such Pit or Hole, and the Repair of the Roads in the Parish where the Offence is committed, in such Manner as the said Justice or Justices shall direct. § 31.

Contracting for getting and carrying Materials.

X. When the Labour and Team-Duty of the Parish is not sufficient for getting and carrying Materials, the Surveyor (in Presence of the Assistant, if there be any) at a Meeting to be held for the Purpose, (of which Ten Days Notice in Writing, fixed on the Church or Chapel Door, must be given, and which Notice must specify the Work to be done, and the Time and Place of letting the same) shall, and is required by this Act to contract for getting and carrying such Materials *. § 49.

Surveyor not to have any Share in Contracts, &c.

XI. Any Surveyor, having any Share or Interest, directly or indirectly, in such Contract, or in any other Contract for

* Vide Remark.

Work or Materials on Account of the Highways, &c. or on his own Account, letting to Hire any Team, or disposing of any Timber, Stone, or Materials of any Kind, without a Licence in Writing from some Justice of the Limit, shall forfeit, for every such Offence, Ten Pounds, and be for ever rendered incapable of being employed as a Surveyor with a Salary. § 49.

XII. In order to reimburse the Expences of purchasing Materials, making Satisfaction for Damages done in carrying them, or in making Drains, Water-Courses, &c. repairing Bridges, Trunks, erecting Guide-Posts, paying Surveyors Salaries, &c. Two or more Justices at their Special Sessions, on Application of the Surveyor, and Oath made of the Sum which he hath expended, or which will be required for those Purposes, may order a *Rate or Assessment* on the Parish, not exceeding Sixpence in the Pound in one Year, the same to be made and collected by such Persons, and allowed in such Manner, and the Money raised thereby employed and accounted for, as the said Justices shall direct. § 30.

1st Rate for purchasing Materials, paying Damages, &c.

C H A P. IV.

Statute Duty.

Six Days Duty.

SECTION I. **S**IX Days Duty (if so many Days shall be found necessary) is to be done in every Parish, Township or Place, in every Year, at the Time and Place appointed by the Surveyor, the Year to be computed from *Michaelmas* to *Michaelmas*.
§ 34.

Who is deemed to keep a Team.

II. Every Person keeping a Waggon, Cart or Plough, and Three Horses used to draw the same, shall (whether occupying 50*l.* *per Annum* or not) be deemed to keep a Team, and obliged to perform Statute Duty therewith for the Parish where he resides, which Duty shall excuse him for that Parish for that Year, provided he occupies not above 50*l.* *per Annum*. § 34.

Who are to find Teams.

III. Every Person occupying Lands, Tenements, Woods, Tithes or Hereditaments of the annual Value of 50*l.* in any One Parish (whether keeping such Team or not) shall be obliged to find or do Duty with One Team in such Parish; and every Person in like Manner occupying 100*l.* in any Parish, shall find or do Duty with Two Teams in such Parish;

rish ; and every Person occupying 150 *l.* in any Parish, shall find or do Duty with Three Teams in such Parish, and for greater Sums in like Manner, adding One Team for every 50 *l.* Value. By the Duty of One Team must be understood the sending One Waggon, Cart or Carriage, with Three Horses, or Four Oxen and One Horse, or Two Oxen and Two Horses, and Two able Men, to work Eight Hours each Day at the Direction of the Surveyor, excepting in the Case of such as do not occupy to the Amount of 30 *l.* in their own Parish, who are only obliged to send One Labourer *.

What is the Duty of a Team.

§ 34.

IV. Every Person occupying above 50 *l.* *per Ann.* and less than 100 *l.* must, beside performing the Duty of One Team as aforesaid, pay a Contribution of 1 *d.* *per Day*, for every Day of the Six Days above mentioned, for all the Pounds he so occupies above 50 and under 100 *l.* and every Person occupying more than 100 and less than 150 *l.* beside finding Two Teams, must pay the like Contribution for all the Pounds he occupies above 100 and less than 150 *l.* And every Person occupying above 150 *l.* and less than 200 *l.* must, beside finding Three

Contribution Money.

* Vide Remark.

C 3

Teams,

Teams, pay the like Contribution for all the Pounds he occupies above 150 *l.* and less than 200 *l.* and so on to greater Sums in like Manner. § 34.

Ditto.

V. Every Person keeping a Team, &c. and occupying Lands, &c. under the yearly Value of 50 *l.* in any other Parish than that wherein he resides, shall pay the Contribution above mentioned to the Surveyor of such Parish, for all the Lands, &c. occupied therein. § 34.

Ditto.

VI. Every Person not keeping a Team, and occupying less than 50 *l. per Annum* in the Parish where he resides, or in any other Parish, shall pay the said Contribution for all the Lands, Tenements, &c. which he shall so occupy. § 34.

Ditto.

VII. These Contributions are to be paid at the same Time with the Compositions for Team-Duty and Labour, herein after mentioned, or within Ten Days after; and in Default of Payment, the Money is to be levied by Distress*. § 34.

Labour Duty.

VIII. Every Inhabitant, being of the Age of Eighteen, and under Sixty, not being chargeable in any of the Respects aforesaid for Lands, Tenements, &c. of the yearly Value of 4 *l.* or upwards, and not being *bona fide* an Apprentice or menial Servant, nor having performed

* Vide Remark.

the Duty or paid the Composition in any other Parish, Township, or Place for that Year, shall do Duty by themselves, or One sufficient Labourer, for the Parish wherein they shall inhabit, bringing or sending necessary Tools, as Spades, Shovels, Mattocks, &c. and such Persons, or their Labourers, must work Eight Hours in each Day. § 35.

IX. Persons keeping a Cart and Two Horses, and Persons keeping a Cart and One Horse, are to do Statute-Duty with such Carts and Horses, and One Labourer to manage the same, in like Manner with the Teams; or to pay the Contribution-Money before mentioned for the Lands, Tenements, &c. which they occupy, *at the Option of the Surveyor.* § 35.

Cart Duty, or Contribution in Lieu thereof.

X. Persons keeping a Coach, or Post-Chaise, (not keeping a Team, nor occupying 50 *l. per Ann.*) must pay One Shilling *per Day* for each Horse used to draw in the same, or pay the Contribution-Money for the Lands, Tenements, &c. which they occupy, *at the Option of the Surveyor.* § 35.

Composition for Coaches, &c. Contribution in Lieu thereof.

XI. Persons keeping a Plough, but no Carriage, must pay for each Horse, or Pair of Oxen used therein, 1 *s. per Day*, or pay the Contribution-Money as aforesaid, *at the Option of the Surveyor.* § 42.

Composition for Ploughs, or Contribution in Lieu.

Person not renting 30 l. where he lives, but maintaining his Team from Land in another Parish.

XII. In case of a Person keeping a Team, and not occupying 30 *l. per Ann.* in the Parish where he resides, but in Part maintaining his Team from Lands occupied in another Parish or other Parishes, the Justices, at some Special Sessions, may mitigate and reduce the Duty to be done, or Composition to be paid by him, in such Manner as they may think just and proper. § 40.

Composition for Team Duty.

XIII. The Team-Duty may be compounded for on such Terms as the Justices, at their Special Sessions held next after *Michaelmas*, shall adjudge and declare to be reasonable, not exceeding Six Shillings, nor less than Three Shillings *per Day*, for One Team; and in case no such Judgment be given, the Standard of Composition shall be *Four Shillings and Sixpence per Day for One Team, and Three Shillings per Day for every Cart and Two Horses, and Two Shillings per Day for every Cart and One Horse: Inhabitants liable to perform Labour Duty may also compound for Fourpence per Day.* § 38.

Notice for compounding.

XIV. The Surveyor shall, on some Sunday in November, cause Ten Days Notice to be given in the Church or Chapel, (or, if there be no Church or Chapel in the Parish, then in the most public Place therein) and repeat the said Notice in the same Place, on the next succeeding

succeeding *Sunday*, of the Time and Place, when and where the Persons permitted under Authority of this Act, and inclined to compound for the Duty, in Manner aforesaid, may signify to such Surveyor their Intention; and every Person signifying the same, who shall then, or within the Space of One Calendar Month afterwards, pay to such Surveyor the Composition before appointed, shall be discharged from the Performance of Statute Duty for that Parish for that Year*. § 41.

XV. No Composition shall be permitted, unless the same shall be paid at the Day or within the Time aforesaid, except in Cases where the Occupation of Lands, Tenements, &c. shall be changed, or any new Inhabitants shall come to reside in the Parish, after the Time appointed for the Payment of such Composition; in which Case, such Person shall be allowed to compound, provided he shall pay the Composition to the Surveyor, within Fourteen Days after he shall enter on such Premises, or come to reside in such Parish. § 41.

Composition not permitted unless paid at the Time appointed.

XVI. Every Tenant or Occupier who intends to quit the Premises he occupies within Six Calendar Months, from the Time fixed for such Composition, may

Tenant quitting within Six Months of the Time appointed as above.

• Vide Remark,

compound

compound for Half the Duty, and the succeeding Tenant or Occupier may in like Manner compound for the other Half thereof. § 41.

Person paying more than his Neighbours, the Surplus to be returned.

XVII. If a Surveyor shall have received from any Person a Composition for more Duty than shall be required from the other Occupiers and Inhabitants of the Parish for that Year, he shall repay to such Person so much of such Composition as may place him upon an Equality with his Neighbours. § 41.

Proportion of Composition-Money to be paid to Turnpike Roads in lieu of Duty to be performed thereon.

XVIII. Where any Part of the Statute Duty is directed to be performed on Turnpike Roads, and the Persons liable to the Performance of Statute Duty, or any of them, have compounded with the Parish Surveyor for such Part thereof, the said Surveyor must pay such Composition-Money to the Treasurer or Surveyor of such Turnpike-Road, in order to be expended on such Part of the Road only as lies within the Parish from which it was received; and if such Surveyor shall neglect or refuse to pay the same upon Demand, within Twenty Days after it is received, it may be recovered by Distress of his Goods, in like Manner with other Penalties. § 44.

Surveyor may exchange Teams for Men.

XIX. If the Surveyor, on any Day, shall think Teams unnecessary for the Business he has to do, he may order, in the

the Manner herein after directed, Three Men to be sent in lieu of each Team, which Men must be sent accordingly, or otherwise the Sum of Four Shillings and Sixpence paid to the Surveyor for each Day. § 35.

XX. The Surveyor, when he finds it most convenient, may order Part of a Team, as a Cart with Two Horses, or a Stand Cart with One Horse, and shall allow such Cart and Two Horses as Two Thirds of a Team, and such Stand Cart and One Horse as Half a Team; and Persons directed to perform Duty in such Manner, and neglecting to perform it, shall incur a Forfeiture amounting to Two Thirds, or One Half of the Forfeiture hereafter appointed for Neglect of Duty with a whole Team. If a Waggon be necessary for any particular Business, the Surveyor may order such Business to be performed by any Person who keeps one. § 36.

XXI. If any Person sending a Team (except Persons not occupying 30 *l. per Ann.*) shall not send a Labourer beside the Driver, or if any such Labourer or Driver, or any other Labourer or the Driver of any Cart, shall refuse to Work or Labour during the Time before mentioned, according to Direction of the Surveyor, or if any Driver shall refuse to carry

Surveyor may
order part of a
Team,

or a Waggon.

Persons neglect-
ing to send La-
bourers.

Drivers refusing
to carry proper
Loads.

carry proper Loads, the Surveyor may Discharge every such Team, Cart, or Labourer, and recover from the Owner of such Team or Cart, the Forfeiture which he would have incurred had no such Team, Cart, or Labourer been sent.
§ 35.

Notice to perform Statute Duty.

Forfeitures on neglect of Performance.

XXII. The Surveyor is to give, at the House of every Person liable to perform Statute Duty, Four Days Notice of the Day, Hour, and Place upon which each of the said Day's Duty shall be required to be performed; *and every Person neglecting to send a Team and able Men with the same, as before required, shall forfeit for every such Neglect 10s. and every Person neglecting to send a Cart and Two Horses, as before required, shall forfeit for every such Neglect 5s. and every Person neglecting to send a Cart and One Horse, as before required, shall forfeit for every Neglect 3s. and every Person neglecting to send a Labourer, or perform personal Labour, as before required, shall forfeit for every Neglect 1s. 6d. all which Forfeitures are to be applied to the Use of the Highways within the Parish *. And the Surveyor is required to fairly and equally demand such Duty from every Person liable to perform the same,*

* The Forfeitures above mentioned are for One Day's Neglect, respectively.

according

according to the Directions of this Act ;
and also to proceed without Delay, to
recover all Forfeitures or Penalties in-
flicted by the Act for the Defaults or
Neglects aforesaid. § 37.

XXIII. If it shall appear to the Jus-
tices, at their Special Sessions, held next Justices may or-
der Statute Du-
ty to be performe
in Kind, &c.
after *Michaelmas* Quarter Sessions, that
in any particular Parish there will be a
Difficulty in procuring Carriage for Ma-
terials, or a sufficient Number of Labour-
ers to perform Labour without paying
extravagant Prices for such Carriage and
Labour, the Justices may order the Team-
Duty, or such Part thereof as they may
think proper, to be performed in Kind
(except in respect to Teams belonging to
Persons not occupying Thirty Pounds *per*
Ann.) and may also order the Labourers,
liable to perform Statute Duty, or such
Part of them as they may think proper,
to perform such Duty in Kind, upon
being paid for their Labour the customary
Wages given to Labourers in the same
Parish, deducting therefrom Four Pence
for each Day, being the Composition for
Labourers above mentioned. If only
Part of such Teams or Labourers are
required, it shall be directed in some
given Proportion, as One Half, Third,
or Fourth Part thereof; and the Surveyor
shall, in that Case, at a public Vestry,
put

put the Names of all the Persons liable to send such Teams, into One Hat or Box, and the Names of all the Persons liable to perform such Labour, into another Hat or Box, and some Inhabitant present shall draw out such Number from each as shall be equal to the Duty ordered by the Justices, and the Persons so drawn shall perform such Duty in Kind for that Year. And if any such Order shall be made or continued in the subsequent Year, the same Method shall be observed, but the Names drawn in the preceding Year shall not be put into such Hat or Box. And in every succeeding Year such Method and Regulations shall be observed by the Surveyor, as to render the Duty to be performed in Kind, as equal among the Persons liable thereto as may be. And this aforesaid Order of the Justices, so far as the same shall extend, shall supersede the Liberty of Compounding, and be binding and effectual to all Intents and Purposes whatever, and shall continue in Force till it be discharged or varied by the Justices at some Special Sessions, to be held in the Week next after *Michaelmas* Quarter Sessions. § 39.

Times of Exemption from Performance of Statute Duty may be appointed.

XXIV. In order to prevent Inconvenience to the Persons liable to perform Statute Duty, the Inhabitants of any Parish,

Parish, &c. at some Vestry or public Meeting, may appoint Three Months in every Year wherein no Statute Duty shall be performed, *viz.* One Month in Spring to be called the Seed Month; One Month in Summer for the Hay Harvest, and One Month in Summer for the Corn Harvest, provided Notice in Writing be given to the Surveyor of the Parish, and also to the Surveyor of every Turnpike Road within the same, within Three Days after such Meeting, and Fourteen Days before the Beginning of each of such Months. § 43.

XXV. If in any Parish, Township, or Place, it shall not be necessary to call forth the whole Duty in any One Year, it shall be abated in a just and equal Proportion among all Persons liable to perform the same. § 37.

Statute Duty
may be abated in
an equal Proportion.

C H A P. V.

General Assessment.

ON Application of the Surveyor to ^{2d Rate} the Justices, at the General Quarter Sessions, or at some Special Sessions for the Highways, and Proof on Oath that the Duty directed to be performed, and the Money authorized to be collected

lected by this Act, have been performed and expended; or if the said Justices shall be satisfied that such Duty and Money are insufficient for the Repairs of the Highways, Bridges, Causeways, Streets, or Pavement, belonging to the Parish (Notice being first given of such intended Application at the Church or Chapel of such Parish on some *Sunday* preceding the Sessions), *the said Justices* may order a Rate or Assessment on all Occupiers of Lands, Tenements, Woods, Tithes, and Hereditaments, within the Parish, to be made and collected by such Persons as they shall appoint; and the Money raised thereby must be employed and accounted for according to Direction of the said Justices. Provided that this Rate, together with the Rate for purchasing Materials, paying for Damages, &c. before mentioned, do not amount to more than *Nine Pence in the Pound for One Year*.—If the Place be extra-parochial, the Notice above mentioned must be given in Writing to some of the principal Inhabitants residing therein. § 45, 46.

C H A P. VI.

The Surveyor's accounting, &c. .

SECTION I. **T**HE Surveyor must Surveyor's Books, Account of Tools, &c. keep Books, and enter therein an Account of all Sums of Money received by him or his Assistant, and of all Sums expended, and to whom they have been paid, or to what Purposes they have been applied, and of all Sums remaining due; and also an Account of all Tools, Materials, Implements, and other Things provided or to be provided by Order of the Inhabitants at a Vestry, at the Parish Expence, for the Repairs of the Highways. § 48.

II. The Surveyor must produce these Surveyor must produce his Books, &c. at a Vestry, and verify his Accounts on Oath. Books, and also the Assessments made within the Year, to the Inhabitants of the Parish, at a Vestry or public Meeting, to be held for that Purpose within Fifteen Days before the Special Sessions next after *Michaelmas* Quarter Sessions, in order that they may be inspected by such Inhabitants; and must afterwards take the same to *such* Justice of the Limit wherein the Parish lies, and on *such Day and at such Hour as shall be agreed on at such Meeting*, some Day after the said Meeting of the Inhabitants, and before
D such

such last-mentioned Special Sessions; and then and there verify such Account, or any Part of it, on Oath, if required. And such Justice may allow such Account, or postpone it to the Special Sessions, if he find Cause for so doing; in which Case it may be settled and allowed at such Special Sessions, after the Parts objected to have been explained and verified by proper Evidence, to the Satisfaction of the Justices; but in case any Articles in such Account shall not be explained or proved to the Satisfaction of the Justices, they may disallow the same. § 48.

Accounts must
be delivered to
the Church-
warden or Over-
seer, &c.

III. When the Accounts are allowed or disallowed as aforesaid, all the Books and Assessments shall be transmitted to the Church-warden or Overseer of the Parish (or, if the Place be extra-parochial, to the principal Inhabitant), to be kept for the Use of such Parish, Township, or Place; and the Surveyor must deliver a Duplicate of his Books and Accounts, together with all Sums of Money remaining in his Hands, and likewise all Tools, Materials, and other Things, as aforesaid, to the succeeding Surveyor, or retain them in his own Hands, and account for them in his next Account, in case he be continued Surveyor. § 48.

IV. The

IV. The new Surveyor is authorised and required to collect and recover all Sums of Money left in Arrear, or uncollected by his Predecessor, as fully and effectually as the latter might have done while in his Office. § 48.

New Surveyor must collect Arrears.

V. If the Surveyor should die before his Accounts are made out, or the Monies, Books, Assessments, Tools, and Materials in his Hands, are paid and delivered, his Executors or Administrators shall make out, pay, and deliver the same, in like Manner and under the same Penalty as the Surveyor should have done if he had lived. § 48.

Surveyor dying, his Executors must settle his Accounts.

VI. The Surveyor neglecting to keep such Accounts, and deliver such Books, Duplicates, Assessments, Tools, &c. shall forfeit, for every such Offence, a Sum not exceeding Five Pounds, nor less than Forty Shillings. And making Defaults in paying or accounting for the Money remaining in his Hands, within the Time and according to the Direction aforesaid, shall forfeit double the Value of the Money which shall be adjudged by the Justices to be in his Hands. § 48.

Surveyor neglecting to keep Accounts, forfeits from 5l. to 40s.

VII. The Justices, at the Special Sessions next after *Michaelmas* Quarter Sessions, shall deliver to the Surveyor a printed Abstract of the most material

Abstract of the Act to be delivered to Surveyor.

Parts of this Act, as the Charge thereby directed to be given. § 70.

Price of the Appointment and Bond, &c.

VIII. The Surveyor is to pay to the Justice's Clerk, for the Appointment and Charge, One Shilling; and for the * Bond Sixpence; and for the Account to be examined, and the Oath to be administered, One Shilling, and no more; and any Person receiving any greater Sum or Fee for the Business aforesaid, forfeits the Sum of Ten Pounds for every Offence. § 48.

Surveyor may be a Witness.

IX. The Surveyor may be a competent Witness in all Matters relative to this Act, notwithstanding his Salary may arise in Part from the Penalties and Forfeitures thereby inflicted. § 68.

Notice of Vestry.

X. When a Vestry or public Meeting is authorised or directed by this Act, public Notice of the Place, Day, and Hour of holding the same, shall be given at the Church or Chapel on the *Sunday* preceding such Meeting; and likewise Notice in Writing fixed on the Church Door, specifying the Purpose of the same; and the Meeting shall not be held till Three Days after such Notice be given. If there be no Church or Chapel in the Place, Notice must be fixed up in the most public Part thereof. § 66.

* Vide Chap. I. Section II.

C H A P. VII.

Meetings of Justices, &c.

SECTION I. **T**HE Justices of the Justices required to execute the Act. Peace of all Cities, Corporations, Boroughs, and other Places, are required to put in Execution every Part of this Act within their respective Jurisdictions. § 53.

II. Any Two or more Justices, within their respective Limits, may hold any Two Justices may hold a Session. Special Sessions, besides that which is herein before directed *, for executing the Purposes of this Act, and may adjourn from Time to Time, as they may think fit, causing Notice to be given of the Time and Place of holding such Sessions, and of the Adjournment thereof, to the several Justices acting and residing within such Limits, by the High Constable or other proper Officer. § 61.

III. The Forms of Proceeding given Forms in the Schedule to be used. in the Schedule annexed to the Act, are to be used on all Occasions, with such Additions or Variations only as may be necessary to adapt them to the Exigencies of the Case; and no Objection is to be made, or Advantage taken, for want of

* Vide Chap. I. Section 2:

Form in such Proceedings by any Person whomsoever. § 69.

Justices impow-
ered to admi-
nister Oaths.

IV. Justices are hereby impowered to administer an Oath to any Witness, or other Person, for the better Discovery and Execution of the several Matters authorised or directed to be examined, inquired into, or performed by such Justices. § 77.

C H A P. VIII.

Limitation of the Number of Horses in Carriages, &c.

Limitation of
Horses.

SECTION I. **W**AGGONS with Nine Inch Wheels are to be drawn with Eight Horses only, and Carts with Nine Inch Wheels, with Five Horses only. § 55.

Ditto.

II. Waggon with Six Inch Wheels rolling Nine Inches on a Side, with Seven Horses only. § 55.

Ditto.

III. Waggon with Six Inch Wheels rolling Six Inches only, with Six Horses only. § 55.

Ditto.

IV. Carts with Six Inch Wheels with Four Horses only. § 55.

Ditto.

V. Narrow wheeled Waggon, or Waggon with Wheels under the Breadth of

of Six Inches, with Five Horses only.

§ 55.

VI. Carts with Wheels under the Ditto.
Breadth of Six Inches with Three Horses
only. § 55.

VII. The Owner of every such Wag- Penalty on Su-
pernumerary
Horses.
gon or Cart respectively, shall forfeit
the Sum of Five Pounds, and the Driver
(not being the Owner) the Sum of Ten
Shillings, for every Horse or Beast draw-
ing above the Number respectively limit-
ed as aforesaid; which Forfeiture shall
be to the sole Use and Benefit of the In-
former. § 55.

VIII. No Information is to be laid be- Information
must be laid
within Three
Days after the
Offence.
fore a Justice for Offences in this Respect,
but within Three Days after Commission
of the Offence. And no Action shall be
commenced for any such Offence, except
the same be commenced within One Ca-
lendar Month after the Offence is com- Action must be
commenced
within a Month.
mitted. And neither such Information
or Action shall be laid or commenced,
unless Notice shall be given by the In- Notice must be
given to the Dri-
ver.
former to the Driver of the Carriage on
the Day upon which the Offence shall be
committed, of an Intention to complain
of such Offence. And if it shall appear
to the Justice before whom such Com-
plaint is made, that the Offender lives
so remote as to make it inconvenient to
summon him to appear before such

Justice, the Justice may dismiss the Complaint, and leave the Informer to his Remedy by Action at Law. § 56.

Justices may licence an Addition of Horses.

IX. The Justices, at the *Michaelmas* General Quarter Sessions, may grant Licence in such Manner, and for such Time, as they shall think fit, for an Increase of the Number of Horses to be drawn in Carriages up any steep Hill, or on any Road not Turnpike, in their respective Jurisdictions, in case, on Enquiry, they find the same to be necessary; and from Time to Time, at any *Michaelmas* Quarter Sessions, may revoke or alter such Licence as they shall think fit. § 57.

Justices may stop Proceedings in certain Cases.

X. Any Justice or Justices, or Court of Justice, may stop Proceedings before them for the Recovery of Forfeitures, incurred by drawing with supernumerary Horses, provided it appears on Oath of credible Witnesses, that such Horses, by reason of deep Snow or Ice, were absolutely necessary. § 58.

Carriage on Rollers not limited to Number of Horses.

XI. Carriages moving upon Wheels or Rollers of the Breadth of Sixteen Inches on each Side thereof, with flat Surfaces, are hereby allowed to be drawn with any Number of Horses or other Cattle. § 55.

Exemption of certain Carriages from Limitation of Horses.

XII. The preceding Regulations respecting Breadth of Wheels and Number of Horses, do not extend to Carts, Wagons, or other Carriages, carrying only One

One Stone Block of Marble, Cable Rope, Piece of Metal, or Piece of Timber, or to such Ammunition or Artillery as shall be for his Majesty's Service *. § 58.

XIII. Two Oxen or horned Cattle, ^{Oxen.} shall for all the Purposes of this Act be considered as One Horse. § 58.

XIV. All Waggon and Carts what-^{Marking of Car-} ever, and also all Coaches, Post-Chaises, ^{riages.} or other Carriages let to Hire, shall have the Christian and Surname of their Owner, and the Place of his Residence, painted in large legible Letters on some conspicuous Part of such Waggon, &c. and on the Pannels of the Doors of such Coach, Post-Chaise or other Carriage, on Pain of such Owner forfeiting a Sum not exceeding Five Pounds nor less than ^{Penalty on Ne-} Twenty Shillings. Common Stage Wag-^{glect.} gons or Carts, employed as travelling Stages, from Town to Town, shall, beside the Owner's Name and Place of Residence, have the Words *Common Stage Waggon* or *Cart* (as the Case may be) painted as aforesaid, and any Person painting or causing to be painted any false or fictitious Name or Place of Abode, shall forfeit as aforesaid. - § 59.

* Vide Remark.

C H A P. IX.

Punishment of Offences on the Highways.

Alehouses.

SECTION I. **N**O Alehouses are to be kept or Liquors sold on Bridges where Tolls are taken, by the Persons collecting such Tolls, on Pain of the Offender forfeiting, for every Offence, Five Pounds. § 62.

Persons damaging Mile-Stones, &c.

II. Persons wilfully or wantonly damaging Banks, Causeways, Posts, Mile-Stones, Battlements of Bridges, Direction Posts, graduated Posts, &c. shall, on View of a Justice, or Proof on Oath of One Witness, forfeit for every Offence a Sum not exceeding Five Pounds nor under Ten Shillings, and on Default of Payment shall be committed to the House of Correction, there to be whipped and kept to hard Labour for any Time not exceeding One Month nor less than Seven Days, at the Discretion of the Justice. § 52.

Driver misbehaving,

III. Drivers of Carts, Cars, Drays, or Waggon, riding upon their Carriages in any Street or Highway, and not having some Person on Foot or Horseback to guide the same (Carriages conducted by some Person holding the Reins of the Horse or Horses drawing the same excepted),

excepted), or by Negligence or wilful Misbehaviour, causing Hurt or Damage to any Person or Carriage, or quitting the Highway and going on the other Side the Fence, or wilfully being at such Distance from their Carriage that they cannot have the Government of their Horses, or by Negligence or Misbehaviour preventing the free Passage of any other Carriage, or of any of his Majesty's Subjects; or when driving an empty Waggon, Cart or Carriage, refusing or neglecting to turn aside and make way for any Coach, Chariot, Chaise, loaded Waggon, Cart, or other loaded Carriage, or driving any Carriage not having the Owner's Name painted thereon, or refusing to discover the true Name of the Owner of the Carriage which they are driving (in case such Name be not painted thereon as before directed), every such Driver shall, in any of these Cases, forfeit for every Offence a Sum not exceeding Ten Shillings, in case he is not Owner of the Carriage; and a Sum not exceeding Twenty Shillings in case he is Owner of the Carriage; and shall, in Default of Payment, be committed to the House of Correction for any Time not exceeding One Month, unless the Forfeiture be sooner paid. ' § 60.

Forfeits, if
Owners, 20s. if
not Owners, 10s.

may be apprehended by any Person ;

IV. Any Driver offending in any of the Cases before mentioned, may be apprehended, with or without a Warrant, by any Person who sees the Offence committed, and shall immediately be delivered to a Constable or other Peace Officer, in order to be conveyed before some Justice of the Peace. § 60.

and refusing to tell his Name, may be committed.

V. If any such Driver shall refuse to discover his Name, the Justice may commit him to the House of Correction for any Time not exceeding Three Months, or may proceed against him for the Penalty aforesaid, by a Description of his Person and Offence, expressing in such Proceedings that he refused to discover his Name. § 60.

Persons opposing the Execution of the Act, forfeit from 10l. to 40s.

Constables refusing to execute Warrants forfeit the same.

VI. Persons resisting or opposing any Person employed in the Execution of this Act ; or Constables, &c. refusing or neglecting to execute any Warrant or Precept of any Justice, on Conviction of such Offence shall forfeit a Sum not exceeding Ten Pounds nor less than Forty Shillings, at the Discretion of the Justice before whom they are convicted. Which Sum shall be paid to the Surveyor of the Parish where the Offence was committed, to be laid out in the Repair of the Highways therein.—On Refusal of Payment, or giving Security for Payment of such Forfeitures, the Party is

to be committed to the Gaol or House of Correction for any Time not exceeding Three Months, or till the Forfeiture be paid. § 71.

C H A P. X.

Recovery of Sums assessed, Penalties, Forfeitures, &c.

SECTION I. **I**F any Person shall refuse Recovery of Sums assessed. or neglect to pay any Sum assessed upon him by any Assessment made in pursuance of this Act, within Ten Days after Demand made thereof, the Surveyor, or other Person authorised by a Warrant from one Justice having Jurisdiction therein, may levy the same by Distress and Sale of the Party's Goods, rendering the Overplus to such Party, after the necessary Charges of Distress and Sale are deducted. And in Default of such Distress, the Justice may commit the Offender to Gaol till he has paid the Sum assessed, with Costs and Charges. § 67.

II. All Forfeitures and Penalties appointed by this Act, for Offences against Recovery and Application of Forfeitures. the same (the Manner of levying and recovering which is not hereby otherwise particularly directed), with all Costs and Charges

Charges so allowed, shall be levied by Distress and Sale of the Offender's Goods, in Manner aforesaid, rendering the Overplus to such Offender, after Deduction of the necessary Charges. And the Penalties and Forfeitures so levied, shall be paid one Half to the Informer, and the other Half to the Surveyor of the Parish where the Offence, Neglect, or Default shall happen, to be applied to the Repair of the Highways therein, unless otherwise directed by this Act *. § 72.

Commitment in
Default of Dis-
tress,

III. If Distress cannot be found, the Offender may be committed to the Gaol or House of Correction, for any Time not exceeding Three Months, unless the Penalty or Forfeiture, Costs and Charges, shall be sooner paid. § 72.

Case of the Of-
fender living out
of the Jurisdic-
tion of the Jus-
tice authorised
to grant the
Warrant,

IV. If the Offender lives out of the Jurisdiction of the Justice authorised to grant the Warrant of Distress, any Justice of the Limit where such Offender shall inhabit (upon Request to him made, and upon Sight of a true Copy of the Conviction whereby such Forfeiture or Penalty was incurred, and of the Order for Payment of the Costs and Charges, proved by Oath of One Witness), may and is required, by Warrant under his Hand and Seal, to levy the said Penalty, For-

* Vide Remark.

feiture,

feiture, Costs and Charges, or so much thereof as has not been paid, upon the Goods of the Offender, or in Default of Distress, may commit him in Manner above mentioned. § 72.

V. No Warrant of Distress, unless ^{Warrant of Distress when to be issued.} otherwise directed by this Act, shall be issued for levying any Penalty, Forfeiture, Costs or Charges, till Six Days after the Offender shall have been convicted, and an Order made and served on him for Payment thereof. § 73.

VI. Conviction is to be made by Con- ^{Mode of Conviction.} fession of the Party accused, Oath of One or more credible Witness or Witnesses, or View of a Justice. Any Inhabitant of any Parish, &c. where any Offence against this Act is committed, shall be deemed a competent Witness, notwithstanding his Inhabitation. § 76.

VII. When Distress shall be made for ^{Provisions respecting Distress.} Sums of Money to be levied by Virtue of this Act, the Distress shall not be deemed unlawful, nor the Party distraining be deemed a Trespasser, on Account of any Default or Want of Form in any Proceedings relating thereto; nor shall such Party be deemed a Trespasser *ab initio* on Account of any subsequent Irregularity; but the Person aggrieved by such Irregularity may recover Satisfaction for the special Damage, in an Action on the Case,

Case, provided no Tender of Amends be made previous to the Commencement of the Action; and in case no such Tender of Amends hath been made, the Defendant, by Leave of the Court before Issue joined, may pay Money into Court, on which such Proceeding shall be made as in other Actions when the Defendant is allowed to pay Money into Court. § 78, 79.

Prosecutor for Penalties may proceed by Action.

VIII. When Forfeitures or Penalties amount to the Sum of Forty Shillings, the Prosecutor may, if he please, proceed by Action at Law, giving Ten Days Notice to the Offender previous to the commencing such Action, and commencing the same within One Calendar Month after the Offence be committed; and if the Plaintiff recover in such Action, he shall have double Costs. § 74.

C H A P. XI.

Appeal to Quarter Sessions.

Persons aggrieved by Execution of the Act may appeal to the Quarter Sessions.

APPEAL may be made to the Quarter Sessions by Persons aggrieved by any Thing done by any Justice, Justices, or other Persons, in the Execution of this Act*; the Appellant

* For which no particular Method of Relief has already been appointed by this Act.

giving

giving Notice in Writing to the Justice, or other Person aggrieving, within Six Days after the Cause of such Complaint arose, and within Four Days after such Notice, entering into a Recognizance before some Justice of the Limit, with one Surety, to try such Appeal, and abide the Order of, and pay such Costs as shall be awarded by, such Quarter Sessions. And Justices, or other Persons, having Notice of such Appeal as aforesaid, shall return all Proceedings had before them respecting the Matter of such Appeal, on Penalty of Forfeiting Five Pounds for Neglect therein. The Determination of the Quarter Sessions is to be final; and no Proceedings are to be quashed for Want of Form, or removed by *Certiorari* into any other Court. No Appeal is to be made against Conviction for Forfeitures incurred by this Act, unless the Party convicted shall, at the Time of Conviction, or within Six Days after, give Notice of his Intention to appeal, and enter into a Recognizance to pay such Forfeitures, in case such Conviction shall be affirmed on such Appeal; and on his giving such Security, further Proceedings for the Forfeiture shall be suspended, till the Appeal be heard and determined. § 80.

C H A P. XII.

Indictments for not Repairing Roads, &c.

Justices of Affize, or Justices of the Peace, on View, or Information, may present bad Roads, &c.

SECTION I. JUSTICES of Affize, &c. and Justices of the Peace, on their own View, or Information on Oath of the Surveyor, may make Presentment at the Affizes or Quarter Sessions, of Highways, &c. not sufficiently repaired, or of other Defaults or Offences contrary to the Intent of this Statute. All Defects of this Kind are to be presented in the Jurisdiction where the same shall lie, and not elsewhere; and no Presentment or Indictment shall be removed by *Certiorari*, or otherwise, out of such Jurisdiction, till the same be traversed and Judgment given thereupon, except where the Duty or Obligation of Repairing may come in Question. And every such Presentment made by any Justice of Affize, &c. or Justice of the Peace, shall be equally valid and effectual as if presented and found on the Oaths of Twelve Men. And the said Justices of Affize, &c. at their respective Courts, and Justices of the Peace at their Quarter Sessions, shall have Authority to assess such Fines as to them shall seem meet, saving to all Persons affected by such Presentment, their lawful Traverse

to the same, as well with respect to the Fact of Non-repair, as to the Duty or Obligation of Repairing. And the Justices, at their Quarter Sessions, or the major Part of them, may, if they see Cause, direct the Prosecutions upon Presentments there made to be carried on at the general Expence of such Limit, and to be paid out of the general Rates within the same. § 24.

II. No Fine, Issue, Penalty, or Forfeiture for not repairing the Highway, or not appearing to any Indictment or Presentment on that Account, is to be returned into the Court of Exchequer or other Court, but shall be levied by, and paid into the Hands of such Person (residing near the Parish, &c. where the Road shall lie) as the Court, imposing such Fine, &c. shall order and direct, to be applied towards the Amendment of such Highways. And the Person ordered to receive such Fine, &c. is to apply and account for the same according to Direction of such Court, or in Default thereof shall forfeit double the Sum received. § 47.

Directions respecting Fines, Forfeitures, &c.

III. In case any Fine, Issue, Penalty, &c. so imposed on any Parish, &c. for not repairing or appearing as aforesaid, shall be levied on any One or more of the Inhabitants of such Parish, such Inhabi-

Reimbursing Persons on whom Fines are levied.

tant or Inhabitants may make Complaint to the Justices at their Special Sessions, which Justices are hereby impowered and authorised, by Warrant under their Hands and Seals, to cause a Rate to be made, according to the Manner of the General Assessment (before mentioned) for the reimbursing such Persons the Money levied on them as aforesaid; which Rate so made and confirmed by any Two Justices, shall be collected and levied by the Surveyor of the Parish, and the Money levied on such Inhabitant or Inhabitants repaid to them by him from the Produce thereof, within One Month from the making and confirming the said Rate.

§ 47.

Court may award
Costs in Cases of
Indictment.

IV. The Court, before which any Indictment or Presentment for not repairing Highways shall be tried, may award Costs to the Prosecutor, if it appear that the Defence made to such Indictment was frivolous, and may award Costs to the Person indicted or presented, to be paid by the Prosecutor, if it appears that the Prosecution was vexatious. § 64.

Surveyor may
charge in his Ac-
count Expences
of indicting or
defending In-
dictments.

V. If the Inhabitants of any Parish, &c. agree at a Vestry, or public Meeting, to indict any Person for not repairing any Highway in such Parish which they apprehend such Person is obliged by Law to repair, or for committing any

Nuisance on the Highways, or shall agree at such Vestry Meeting to defend any Presentment or Indictment against such Parish, &c. it shall be lawful for the Surveyor to charge in his Account the reasonable Expences incurred in carrying on or defending such respective Prosecutions, after the same shall have been agreed to by such Inhabitants at a Vestry or public Meeting, or allowed by a Justice of Peace within the Limit where such Highway shall be; which Expence, so agreed on, or allowed, shall be paid by such Parish out of the Fines, Forfeitures, Compositions, and Assessments authorised by this Act. § 65.

C H A P. XIII.

Repairing, Widening, and Turning of Roads, by Order of the Justices, &c.

SECTION I. **T**HE Justices, at their Special Sessions, may, by Writing under their Hands and Seals, order such Highways, as they think most want repairing, to be repaired first, and the Surveyor is required to obey such Order. § 25.

Justices may order what Roads shall be first repaired.

II. The Justices, or Two or more of them, on Information given by the Surveyor

Justices may oblige Persons, &c. liable to repair Highways, to repair them,

veyor on Oath, of Highways, Bridges, Causeways, or Pavements which are out of Repair, and ought to be repaired by any Person or Persons, Bodies Politic or Corporate, by Reason of any Grant, Tenure, Limitation, or Appointment of any charitable Gift, or otherwise, may limit a Time for repairing the same, of which Notice shall be given by the Surveyor to the Occupier of the Lands or Tenements liable to such Repair, or to such other Persons, Bodies Politic or Corporate, as are chargeable with the same. And if such Repairs are not effectually made within the Time limited, the said Justices are required to present such Highways, with the Persons, &c. liable to repair them, at the next Quarter Sessions, And the Justices, at such Quarter Sessions, may, if they think fit, order the Prosecution to be carried on at the Expence of the Limit, and paid out of the general Rates of the same. § 23.

and may inquire concerning the Management of Estates given for Maintenance of Highways ;

III. Persons enfeoffed or trusted with Lands given for the Maintenance of Highways, Bridges, &c. are to let them to farm at the most improved yearly Value without Fine ; and the Justices in their open Sessions may inquire, by what Means they think fit, into the Value of all such Lands, and order the Improvement and Employment of the Rents thereof

thereof according to the will of the Donor, in case they find Negligence in the Performance of the Trust in the Persons intrusted; excepting in the Case of Lands given, for the Uses aforesaid, to any College or Hall of either of the Universities, which have Visitors of their own. § 51.

IV. Two Justices, upon View, may order narrow Roads to be widened to the Breadth of Thirty Feet, or, where necessary, to be turned or diverted in such Manner as they shall think fit; and the Surveyor, under Direction of the Justices, may agree with the Land Owners for such Ground as is requisite for that Purpose; and in case Agreement cannot be made, upon Certificate signed by the Justices making such View, of their Proceedings in the Premises, and upon Proof of Fourteen Days Notice, in Writing, having been given by the Surveyor to the Owner or Occupier, &c. of his Intention to apply to the Quarter Sessions for the Purpose of taking such Ground, the said Quarter Sessions shall impanel a Jury to assess the Value of such Ground, not exceeding Forty Years Purchase of the annual Value thereof, together with Recompence for making Fences and Ditches by the Side thereof: And upon Payment or Tender of the Money, so

and may order narrow Roads to be widened to Thirty Feet, or turned.

E 4 assessed,

assessed, to the Party intitled to receive it, or if he cannot be found, or refuse to accept it, on leaving it in the Hands of the Clerk of the Peace of the Limit, the Interest of the said Party in the said Ground shall be divested out of him, and the said Ground, after such Agreement or Verdict, shall be deemed a public Highway to all Intents and Purposes whatever. The Timber growing on such Ground is to be fallen by the Owner, and removed within One Month after the Order shall have been made; and in Default thereof may be felled and laid upon the adjoining Land for the Benefit of the Owner, within the respective Months appointed for felling Timber as before-mentioned.. § 16.

Directions concerning Costs of valuing Ground for widening, &c.

V. In Case of proceeding by Verdict for the Valuation of Ground as above mentioned, if the Assessment of the Jury amount to more than had been before offered by the Surveyor to the Proprietor, by Way of Agreement, the Costs of Proceeding at the Quarter Sessions shall be paid by the Surveyor; if the Assessment of the Jury shall be only equal to, or less than the Sum offered by the Surveyor, the Costs shall be paid by the Proprietor. § 18.

VI. No Highway, when turned or diverted, is to exceed the Breadth of
Thirty

Thirty Feet; nor is the Power before granted of enlarging or turning Roads, to extend to the pulling down any House or Building, or taking away the Ground of any Garden, Park, Paddock, Court or Yard. § 16.

Houses, Gardens, Parks, &c. must not be pulled down, or taken away.

VII. Where Money shall be wanting for the Purposes of purchasing Ground, making Satisfaction for Damages, &c. the Two Justices aforesaid, in case of Agreement, or the Court of Quarter Sessions in case of Verdict, shall order an equal Assessment to be made on all Occupiers of Lands, Tenements, Woods, Tithes and Hereditaments in the Parish, and direct the Money to be paid to the Persons interested in such Ground, in such Manner as they the said Justices or Court of Quarter Sessions shall appoint. And the Money raised by such Assessment shall be employed and accounted for according to their Direction: And if the said Assessment be not paid within Ten Days after Demand, it shall be levied by the Surveyor by Order of the said Justices or Court of Quarter Sessions. No such Assessment to exceed Sixpence in the Pound in any One Year. § 16.

3d Rate, for purchasing Ground, paying Damages, &c.

VIII. The old Highway may be sold by the Surveyor, with the Approbation of the Justices; but subject to ancient Right of Passage to Houses, Lands, &c. provided

Old Highways may be sold.

provided the Proprietors of such Houses, Lands, &c. cannot in the Opinion of the Justices be accommodated with a convenient Passage from the new one. The Money arising from the Sale of the old Road is to be applied towards the purchasing of Land for the new one.

§ 17.

Highways, Bridle
and Footways,
may be turned
by Order of Jus-
tices.

IX. Highways, Bridleways and Footways, may be diverted so as to make them nearer or more commodious to the Public, by Order of Two or more Justices at their Special Sessions, with Consent of the Owner of the Lands through which the new Way is proposed to be made, and Ground may be purchased for that Purpose, and the old Ways stopped up and sold. Persons injured by such Order for stopping up old Ways or making new ones, or by the Inclosure of any Road or Highway, by Virtue of any Inquisition taken on a Writ of *ad quod damnum*, may appeal to the next General Quarter Sessions on giving Ten Days Notice to the Surveyor, and Party interested in such Inclosure, if there be sufficient Time for that Purpose, or otherwise to some subsequent Quarter Sessions, and the Determination of the Quarter Sessions shall be final.—And if no Appeal be made, or the Quarter Sessions shall confirm the Order of the Justices, the

the new Way shall be deemed a public Highway, Bridleway or Footway, for ever. No Stoppage or Inclosure of old Way is to be made till the new one be compleated, and certified by Two Justices to be so: the Certificate thereof to be inrolled among the Records of the Court of Quarter Sessions. If any Highway, Bridleway, and Footway, has been diverted or turned by Accident, as Floods or Slips of Ground, or if a new Way has been made in Lieu thereof as aforesaid, if the Alteration has been acquiesced in, and no Prosecution commenced for the Space of more than Twelve Months, such altered or new Way shall be deemed the public Highway, Bridleway, or Footway, to all Intents and Purposes, and Persons liable to Repair of the old one shall be liable to the Repair thereof, unless where any particular Agreement shall have been made between the Parties interested therein. No Common Land lying between the Fences of old Roads which are ordered to be stopped up, shall be inclosed; and Land not being Common lying between the Fences of such Road, where the same shall exceed Thirty and not extend to Fifty Feet in Breadth, shall not be inclosed till Satisfaction be made to the Owner thereof, for as much thereof as shall exceed the said Breadth
of

Thirty Feet; and if such Satisfaction cannot be agreed on between the Parties, it shall be adjusted by the Justice or a Jury: And if such Land not being Common shall exceed Fifty Feet on a Medium, or if the old Road shall lie through the open Fields belonging to any particular Person; the Owner of the Land in either Case shall respectively hold the same, and pay to the Surveyor for the Use thereof so much Money as shall be agreed on between the Parties; or in Case of their not agreeing, so much as shall be adjudged by the said Justices, or a Jury, to be adequate to the Purchase of it, estimating it at Thirty Feet on an Average.—When a Footway is, by Virtue of this Act, turned through other Lands belonging to the Owner of the Lands through which the old one went, it is to be deemed only an Exchange, and no Satisfaction made to such Owners, unless the Length of the new Path exceeds that of the old one, and the Land be of greater Value. And when a Footway shall be turned through the Land of another Person, the Value of the Advantage gained by the Owner of the Land where the old Path lay by the Removal thereof, if it cannot be otherwise adjusted, shall be adjudged by two indifferent Parties, one named by the said Owner,

Owner, and the other by the two Justices; and if these two cannot agree, they shall chuse a third, whose Determination shall be final. And the Money paid by the Owner of the Land where the old Path lay, shall be given to the Owner of the Land where the new Path lies, by way of Satisfaction. § 19, 20, 21.

X. The Justices, on View or Enquiry, may order unnecessary Highways to be stopped up, and sold, subject to the Restrictions before mentioned. § 22.

Unnecessary Highways may be stopped up, and sold.

C H A P. XIV.

Limitation of Actions, &c.

SECTION I. **N**O Action or Suit shall be commenced against any Person for any thing done or acted in pursuance of this Act, if such Action or Suit be not commenced within Three Calendar Months after the Fact is committed. § 81.

Actions must be commenced within Three Months;

II. No Action is to be brought but in the County where the Fact was committed. The Defendant may plead the general Issue, and give this Act, and the Special Matter contained therein, as Evidence

and in the County where the Fact is committed.

dence at any Trial to be had thereon; and if Judgment be given against the Plaintiff, the Defendant shall have Treble Costs. § 81.

Exceptions to
Extent of the
Act.

III. No Directions in this Act respecting Surveyors and Lifts, &c. is to extend to the City of *Bristol*; nor is the Act to extend to the Parishes of *St. Mary Whitechapel* and *St. John Wapping*; nor to controul the Authority of the Commissioners of Sewers. § 85, 86, 87.

Repeal of former Acts.

IV. This Act repeals the Act of 7 Geo. III. except so much thereof as repeals the several Acts therein mentioned, which are not revived by the Act of 8 Geo. III. § 83.

TABLE

TABLE of DUTY, COMPOSITION, and CONTRIBUTION
for the whole Six Days. For every Rent from *1l.* to *400l.*
per Annum. The Composition supposed at *4s. 6d. per Day*
for a Team.

A Calculation of Sums regularly advancing by Sixpence in the Pound, may by some Persons be deemed a Work of Supererogation; but many a Parish Surveyor will be glad to find such Calculation ready made to his Hand. If the Party chargeable, perform the Team-duty in Kind, he is only chargeable with the Six-pence in the Pound Contribution as in the 3d Column; if he compounds for the Team-duty, he is chargeable with both Composition and Contribution, as they stand under the Head Total in the 4th Column. If only Half the Duty, or One Third of it, be ordered to be performed, only Half or a Third of the Composition and Contribution here calculated must be taken of the Persons liable.

Rent or Occupat.	Contribution.				Rent or Occupat.	Contribution.			
£.	l.	s.	d.		£.	l.	s.	d.	
1	-	0	0	} If such Occupiers are Inhabitants, they must work 6 Days, or pay 2s.	26	-	0	13	0
2	-	0	1		27	-	0	13	6
3	-	0	1		28	-	0	14	0
4	-	0	2		29	-	0	14	6
5	-	0	2		30	-	0	15	0
6	-	0	3		31	-	0	15	6
7	-	0	3		32	-	0	16	0
8	-	0	4		33	-	0	16	6
9	-	0	4		34	-	0	17	0
10	-	0	5		35	-	0	17	6
11	-	0	5		36	-	0	18	0
12	-	0	6		37	-	0	18	6
13	-	0	6		38	-	0	19	0
14	-	0	7		39	-	0	19	6
15	-	0	7		40	-	1	0	0
16	-	0	8		41	-	1	0	6
17	-	0	8		42	-	1	1	0
18	-	0	9		43	-	1	1	6
19	-	0	9		44	-	1	2	0
20	-	0	10		45	-	1	2	6
21	-	0	10		46	-	1	3	0
22	-	0	11		47	-	1	3	6
23	-	0	11		48	-	1	4	0
24	-	0	12		49	-	1	4	6
25	-	0	12						

Provided such Persons do not keep a Team; if they do, they pay a Composition of *1l. 7s.* and no Contribution.

Rent. £.	Duty or Composition.			Contribution.			Total.		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
50	{ 1 Team. 2 Labourers, }			1	7	0	—	—	—
51	—	—	—	—	0	0	6	—	—
52	—	—	—	—	0	1	0	—	—
53	—	—	—	—	0	1	6	—	—
54	—	—	—	—	0	2	0	—	—
55	—	—	—	—	0	2	6	—	—
56	—	—	—	—	0	3	0	—	—
57	—	—	—	—	0	3	6	—	—
58	—	—	—	—	0	4	0	—	—
59	—	—	—	—	0	4	6	—	—
60	—	—	—	—	0	5	0	—	—
61	—	—	—	—	0	5	6	—	—
62	—	—	—	—	0	6	0	—	—
63	—	—	—	—	0	6	6	—	—
64	—	—	—	—	0	7	0	—	—
65	—	—	—	—	0	7	6	—	—
66	—	—	—	—	0	8	0	—	—
67	—	—	—	—	0	8	6	—	—
68	—	—	—	—	0	6	0	—	—
69	—	—	—	—	0	9	6	—	—
70	—	—	—	—	0	10	0	—	—
71	—	—	—	—	0	10	6	—	—
72	—	—	—	—	0	11	0	—	—
73	—	—	—	—	0	11	6	—	—
74	—	—	—	—	0	12	0	—	—
75	—	—	—	—	0	12	6	—	—
76	—	—	—	—	0	13	0	—	—
77	—	—	—	—	0	13	6	—	—
78	—	—	—	—	0	14	0	—	—
79	—	—	—	—	0	14	6	—	—
80	—	—	—	—	0	15	0	—	—
81	—	—	—	—	0	15	6	—	—
82	—	—	—	—	0	16	0	—	—
83	—	—	—	—	0	16	6	—	—
84	—	—	—	—	0	17	0	—	—
85	—	—	—	—	0	17	6	—	—
86	—	—	—	—	0	18	0	—	—
87	—	—	—	—	0	18	6	—	—
88	—	—	—	—	0	19	0	—	—
89	—	—	—	—	0	19	6	—	—
90	—	—	—	—	1	0	0	—	—
91	—	—	—	—	1	0	6	—	—
92	—	—	—	—	1	1	0	—	—
93	—	—	—	—	1	1	6	—	—

Rent.	Duty or Composition.			Contribution.			Total.					
£.	l.	s.	d.	l.	s.	d.	l.	s.	d.			
94	—	—	—	—	1	2	0	—	2	9	0	
95	—	—	—	—	1	2	6	—	2	9	6	
96	—	—	—	—	1	3	0	—	2	10	0	
97	—	—	—	—	1	3	6	—	2	10	6	
98	—	—	—	—	1	4	0	—	2	11	0	
99	—	—	—	—	1	4	6	—	2	11	6	
100	{ 2 Teams, 4 Labourers, }			2	14	0	—	—	—	2	14	0
101	—	—	—	—	0	0	6	—	2	14	6	
102	—	—	—	—	0	1	0	—	2	15	0	
103	—	—	—	—	0	1	6	—	2	15	6	
104	—	—	—	—	0	2	0	—	2	16	0	
105	—	—	—	—	0	2	6	—	2	16	6	
106	—	—	—	—	0	3	0	—	2	17	0	
107	—	—	—	—	0	3	6	—	2	17	6	
108	—	—	—	—	0	4	0	—	2	18	0	
109	—	—	—	—	0	4	6	—	2	18	6	
110	—	—	—	—	0	5	0	—	2	19	0	
111	—	—	—	—	0	5	6	—	2	19	6	
112	—	—	—	—	0	6	0	—	3	0	0	
113	—	—	—	—	0	6	6	—	3	0	6	
114	—	—	—	—	0	7	0	—	3	1	0	
115	—	—	—	—	0	7	6	—	3	1	6	
116	—	—	—	—	0	8	0	—	3	2	0	
117	—	—	—	—	0	8	6	—	3	2	6	
118	—	—	—	—	0	9	0	—	3	3	0	
119	—	—	—	—	0	9	6	—	3	3	6	
120	—	—	—	—	0	10	0	—	3	4	0	
121	—	—	—	—	0	10	6	—	3	4	6	
122	—	—	—	—	0	11	0	—	3	5	0	
123	—	—	—	—	0	11	6	—	3	5	6	
124	—	—	—	—	0	12	0	—	3	6	0	
125	—	—	—	—	0	12	6	—	3	6	6	
126	—	—	—	—	0	13	0	—	3	7	0	
127	—	—	—	—	0	13	6	—	3	7	6	
128	—	—	—	—	0	14	0	—	3	8	0	
129	—	—	—	—	0	14	6	—	3	8	6	
130	—	—	—	—	0	15	0	—	3	9	0	
131	—	—	—	—	0	15	6	—	3	9	6	
132	—	—	—	—	0	16	0	—	3	10	0	
133	—	—	—	—	0	16	6	—	3	10	6	
134	—	—	—	—	0	17	0	—	3	11	0	
135	—	—	—	—	0	17	6	—	3	11	6	
136	—	—	—	—	0	18	0	—	3	12	0	
137	—	—	—	—	0	18	6	—	3	12	6	

Rent. £.	Duty or Composition.			Contributions			Total.			
	l.	s.	d.	l.	s.	d.	l.	s.	d.	
138	—	—	—	—	0	19	0	3	13	0
139	—	—	—	—	0	19	6	3	13	6
140	—	—	—	—	1	0	0	3	14	0
141	—	—	—	—	1	0	6	3	14	6
142	—	—	—	—	1	1	0	3	15	0
143	—	—	—	—	1	1	6	3	15	6
144	—	—	—	—	1	2	0	3	16	0
145	—	—	—	—	1	2	6	3	16	6
146	—	—	—	—	1	3	0	3	17	0
147	—	—	—	—	1	3	6	3	17	6
148	—	—	—	—	1	4	0	3	18	0
149	—	—	—	—	1	4	6	3	18	6
150	{ 3 Teams, 6 Labourers, }			4	1	0	—	4	1	0
151	—	—	—	—	0	0	6	4	1	6
152	—	—	—	—	0	1	0	4	2	0
153	—	—	—	—	0	1	6	4	2	6
154	—	—	—	—	0	2	0	4	3	0
155	—	—	—	—	0	2	6	4	3	6
156	—	—	—	—	0	3	0	4	4	0
157	—	—	—	—	0	3	6	4	4	6
158	—	—	—	—	0	4	0	4	5	0
159	—	—	—	—	0	4	6	4	5	6
160	—	—	—	—	0	5	0	4	6	0
161	—	—	—	—	0	5	6	4	6	6
162	—	—	—	—	0	6	0	4	7	0
163	—	—	—	—	0	6	6	4	7	6
164	—	—	—	—	0	7	0	4	8	0
165	—	—	—	—	0	7	6	4	8	6
166	—	—	—	—	0	8	0	4	9	0
167	—	—	—	—	0	8	6	4	9	6
168	—	—	—	—	0	9	0	4	10	0
169	—	—	—	—	0	9	6	4	10	6
170	—	—	—	—	0	10	0	4	11	0
171	—	—	—	—	0	10	6	4	11	6
172	—	—	—	—	0	11	0	4	12	0
173	—	—	—	—	0	11	6	4	12	6
174	—	—	—	—	0	12	0	4	13	0
175	—	—	—	—	0	12	6	4	13	6
176	—	—	—	—	0	13	0	4	14	0
177	—	—	—	—	0	13	6	4	14	6
178	—	—	—	—	0	14	0	4	15	0
179	—	—	—	—	0	14	6	4	15	6
180	—	—	—	—	0	15	0	4	16	0
181	—	—	—	—	0	15	6	4	16	6

Rent. £.	Duty or Composition.			Contribution.			Total.		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
182	—	—	—	—	0	16	0	4	17
183	—	—	—	—	0	16	6	4	17
184	—	—	—	—	0	17	0	4	18
185	—	—	—	—	0	17	6	4	18
186	—	—	—	—	0	18	0	4	19
187	—	—	—	—	0	18	6	4	19
188	—	—	0	—	0	19	0	5	0
189	—	—	—	—	0	19	6	5	0
190	—	—	—	—	1	0	0	5	1
191	—	—	—	—	1	0	6	5	1
192	—	—	—	—	1	1	0	5	2
193	—	—	—	—	1	1	6	5	2
194	—	—	—	—	1	2	0	5	3
195	—	—	—	—	1	2	6	5	3
196	—	—	—	—	1	3	0	5	4
197	—	—	—	—	1	3	6	5	4
198	—	—	—	—	1	4	0	5	5
199	—	—	—	—	1	4	6	5	5
200	{ 4 Teams, 8 Labourers, }			5	8	0	—	5	8
201	—	—	—	—	0	0	6	5	8
202	—	—	—	—	0	1	0	5	9
203	—	—	—	—	0	1	6	5	9
204	—	—	—	—	0	2	0	5	10
205	—	—	—	—	0	2	6	5	10
206	—	—	—	—	0	3	0	5	11
207	—	—	—	—	0	3	6	5	11
208	—	—	—	—	0	4	0	5	12
209	—	—	—	—	0	4	6	5	12
210	—	—	—	—	0	5	0	5	13
211	—	—	—	—	0	5	6	5	13
212	—	—	—	—	0	6	0	5	14
213	—	—	—	—	0	6	6	5	14
214	—	—	—	—	0	7	0	5	15
215	—	—	—	—	0	7	6	5	15
216	—	—	—	—	0	8	0	5	16
217	—	—	—	—	0	8	6	5	16
218	—	—	—	—	0	9	0	5	17
219	—	—	—	—	0	9	6	5	17
220	—	—	—	—	0	10	0	5	18
221	—	—	—	—	0	10	6	5	18
222	—	—	—	—	0	11	0	5	19
223	—	—	—	—	0	11	6	5	19
224	—	—	—	—	0	12	0	6	0
225	—	—	—	—	0	12	6	6	0

Rent. £.	Duty or Composition.			Contribution.			Total.		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
226	-	-	-	-	0	13	0	6	1 0
227	-	-	-	-	0	13	6	6	1 6
228	-	-	-	-	0	14	0	6	2 0
229	-	-	-	-	0	14	6	6	2 6
230	-	-	-	-	0	15	0	6	3 0
231	-	-	-	-	0	15	6	6	3 6
232	-	-	-	-	0	16	0	6	4 0
233	-	-	-	-	0	16	6	6	4 6
234	-	-	-	-	0	17	0	6	5 0
235	-	-	-	-	0	17	6	6	5 6
236	-	-	-	-	0	18	0	6	6 0
237	-	-	-	-	0	18	6	6	6 6
238	-	-	-	-	0	19	0	6	7 0
239	-	-	-	-	0	19	6	6	7 6
240	-	-	-	-	1	0	0	6	8 0
241	-	-	-	-	1	0	6	6	8 6
242	-	-	-	-	1	1	0	6	9 0
243	-	-	-	-	1	1	6	6	9 6
244	-	-	-	-	1	2	0	6	10 0
245	-	-	-	-	1	2	6	6	10 6
246	-	-	-	-	1	3	0	6	11 0
247	-	-	-	-	1	3	6	6	11 6
248	-	-	-	-	1	4	0	6	12 0
249	-	-	-	-	1	4	6	6	12 6
250	{ 5 Teams, 10 Labourers, }			6	15	0	-	6	15 0
251	-	-	-	-	0	0	6	6	15 6
252	-	-	-	-	0	1	0	6	16 0
253	-	-	-	-	0	1	6	6	16 6
254	-	-	-	-	0	2	0	6	17 0
255	-	-	-	-	0	2	6	6	17 6
256	-	-	-	-	0	3	0	6	18 0
257	-	-	-	-	0	3	6	6	18 6
258	-	-	-	-	0	4	0	6	19 0
259	-	-	-	-	0	4	6	6	19 6
260	-	-	-	-	0	5	0	7	0 0
261	-	-	-	-	0	5	6	7	0 6
262	-	-	-	-	0	6	0	7	1 0
263	-	-	-	-	0	6	6	7	1 6
264	-	-	-	-	0	7	0	7	2 0
265	-	-	-	-	0	7	6	7	2 6
266	-	-	-	-	0	8	0	7	3 0
267	-	-	-	-	0	8	6	7	3 6
268	-	-	-	-	0	9	0	7	4 0
269	-	-	-	-	0	9	6	7	4 6

Rent. £.	Duty or Composition.			Contribution.			Total.				
	l.	s.	d.	l.	s.	d.	l.	s.	d.		
270	-	-	-	-	0	10	0	7	5	0	
271	-	-	-	-	0	10	6	7	5	6	
272	-	-	-	-	0	11	0	7	6	0	
273	-	-	-	-	0	11	6	7	6	6	
274	-	-	-	-	0	12	0	7	7	0	
275	-	-	-	-	0	12	6	7	7	6	
276	-	-	-	-	0	13	0	7	8	0	
277	-	-	-	-	0	13	6	7	8	6	
278	-	-	-	-	0	14	0	7	9	0	
279	-	-	-	-	0	14	6	7	9	6	
280	-	-	-	-	0	15	0	7	10	0	
281	-	-	-	-	0	15	6	7	10	6	
282	-	-	-	-	0	16	0	7	11	0	
283	-	-	-	-	0	16	6	7	11	6	
284	-	-	-	-	0	17	0	7	12	0	
285	-	-	-	-	0	17	6	7	12	6	
286	-	-	-	-	0	18	0	7	13	0	
287	-	-	-	-	0	18	6	7	13	6	
288	-	-	-	-	0	19	0	7	14	0	
289	-	-	-	-	0	19	6	7	14	6	
290	-	-	-	-	1	0	0	7	15	0	
291	-	-	-	-	1	0	6	7	15	6	
292	-	-	-	-	1	1	0	7	16	0	
293	-	-	-	-	1	1	6	7	16	6	
294	-	-	-	-	1	2	0	7	17	0	
295	-	-	-	-	1	2	6	7	17	6	
296	-	-	-	-	1	3	0	7	18	0	
297	-	-	-	-	1	3	6	7	18	6	
298	-	-	-	-	1	4	0	7	19	0	
299	-	-	-	-	1	4	6	7	19	6	
300	{ 6 Teams, 12 Labourers, }			8	2	0	-	-	8	2	0
301	-	-	-	-	0	0	6	8	2	6	
302	-	-	-	-	0	1	0	8	3	0	
303	-	-	-	-	0	1	6	8	3	6	
304	-	-	-	-	0	2	0	8	4	0	
305	-	-	-	-	0	2	6	8	4	6	
306	-	-	-	-	0	3	0	8	5	0	
307	-	-	-	-	0	3	6	8	5	6	
308	-	-	-	-	0	4	0	8	6	0	
309	-	-	-	-	0	4	6	8	6	6	
310	-	-	-	-	0	5	0	8	7	0	
311	-	-	-	-	0	5	6	8	7	6	
312	-	-	-	-	0	6	0	8	8	0	
313	-	-	-	-	0	6	6	8	8	6	

Rent.	Duty or Composition.			Contribution.			Total.				
£.				l.	s.	d.	l.	s.	d.		
314	-	-	-	-	0	7	0	8	9	0	
315	-	-	-	-	0	7	6	8	9	6	
316	-	-	-	-	0	8	0	8	10	0	
317	-	-	-	-	0	8	6	8	10	6	
318	-	-	-	-	0	9	0	8	11	0	
319	-	-	-	-	0	9	6	8	11	6	
320	-	-	-	-	0	10	0	8	12	0	
321	-	-	-	-	0	10	6	8	12	6	
322	-	-	-	-	0	11	0	8	13	0	
323	-	-	-	-	0	11	6	8	13	6	
324	-	-	-	-	0	12	0	8	14	0	
325	-	-	-	-	0	12	6	8	14	6	
326	-	-	-	-	0	13	0	8	15	0	
327	-	-	-	-	0	13	6	8	15	6	
328	-	-	-	-	0	14	0	8	16	0	
329	-	-	-	-	0	14	6	8	16	6	
330	-	-	-	-	0	15	0	8	17	0	
331	-	-	-	-	0	15	6	8	17	6	
332	-	-	-	-	0	16	0	8	18	0	
333	-	-	-	-	0	16	6	8	18	6	
334	-	-	-	-	0	17	0	8	19	0	
335	-	-	-	-	0	17	6	8	19	6	
336	-	-	-	-	0	18	0	9	0	0	
337	-	-	-	-	0	18	6	9	0	6	
338	-	-	-	-	0	19	0	9	1	0	
339	-	-	-	-	0	19	6	9	1	6	
340	-	-	-	-	1	0	0	9	2	0	
341	-	-	-	-	1	0	6	9	2	6	
342	-	-	-	-	1	1	0	9	3	0	
343	-	-	-	-	1	1	6	9	3	6	
344	-	-	-	-	1	2	0	9	4	0	
345	-	-	-	-	1	2	6	9	4	6	
346	-	-	-	-	1	3	0	9	5	0	
347	-	-	-	-	1	3	6	9	5	6	
348	-	-	-	-	1	4	0	9	6	0	
349	-	-	-	-	1	4	6	9	6	6	
350	{ 7 Teams, 14 Labourers, }			9	9	0	-	-	9	9	0
351	-	-	-	-	0	0	6	9	9	6	
352	-	-	-	-	0	1	0	9	10	0	
353	-	-	-	-	0	1	6	9	10	6	
354	-	-	-	-	0	2	0	9	11	0	
355	-	-	-	-	0	2	6	9	11	6	
356	-	-	-	-	0	3	0	9	12	0	
357	-	-	-	-	0	3	6	9	12	6	

Rent. £.	Duty or Composition.			Contribution.			Total.		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
358	-	1	-	-	0	4	9	13	0
359	-	-	-	-	0	4	9	13	6
360	-	-	-	-	0	5	9	14	0
361	-	-	-	-	0	5	9	14	6
362	-	-	-	-	0	6	9	15	0
363	-	-	-	-	0	6	9	15	6
364	-	-	-	-	0	7	9	16	0
365	-	-	-	-	0	7	9	16	6
366	-	-	-	-	0	8	9	17	0
367	-	-	-	-	0	8	9	17	6
368	-	-	-	-	0	9	9	18	0
369	-	-	-	-	0	9	9	18	6
370	-	-	-	-	0	10	9	19	0
371	-	-	-	-	0	10	9	19	6
372	-	-	-	-	0	11	10	0	0
373	-	-	-	-	0	11	10	0	6
374	-	-	-	-	0	12	10	1	0
375	-	-	-	-	0	12	10	1	6
376	-	-	-	-	0	13	10	2	0
377	-	-	-	-	0	13	10	2	6
378	-	-	-	-	0	14	10	3	0
379	-	-	-	-	0	14	10	3	6
380	-	-	-	-	0	15	10	4	0
381	-	-	-	-	0	15	10	4	6
382	-	-	-	-	0	16	10	5	0
383	-	-	-	-	0	16	10	5	6
384	-	-	-	-	0	17	10	6	0
385	-	-	-	-	0	17	10	6	6
386	-	-	-	-	0	18	10	7	0
387	-	-	-	-	0	18	10	7	6
388	-	-	-	-	0	19	10	8	0
389	-	-	-	-	0	19	10	8	6
390	-	-	-	-	1	0	10	9	0
391	-	-	-	-	1	0	10	9	6
392	-	-	-	-	1	1	10	10	0
393	-	-	-	-	1	1	10	10	6
394	-	-	-	-	1	2	10	11	0
395	-	-	-	-	1	2	10	11	6
396	-	-	-	-	1	3	10	12	0
397	-	-	-	-	1	3	10	12	6
398	-	-	-	-	1	4	10	13	0
399	-	-	-	-	1	4	10	13	6
400	{ 8 Teams, 16 Labourers, }			10	16	0	10 16 0		

The Composition for Persons who keep a Cart and Two Horses, is 18s. for the Six Days; and the Composition for Persons who keep a Cart and One Horse, is 12s. for the Six Days; or they may be charged Contribution-Money for the Amount of their Rent as above, instead of the Composition, if the Surveyor prefers that Method of Taxation.

A Person who does not rent 50*l.* per Ann. but keeps a Team, is not liable to Payment of any Contribution-Money for the Parish where he resides and keeps his Team, but only to the Six Days Duty, or Composition of 1*l.* 7*s.* for the same; but if he occupies Lands in another Parish, he must pay the Contribution-Money for such Lands to the Surveyor of that Parish also.

Where the Poor's Rate is assessed to the Rack-Rent, it may be proper for the Surveyor to make his Charge for Duty and Contribution from it; but when that is not the Case, his Charge should be made from the best Information he is able to procure of the Rent that actually is (or in Case the Owner be Occupier, has been) paid for the Premises in Question.

List of Penalties and Forfeitures.

Many Offences being daily committed merely for want of the offending Party knowing that there is a Power of Punishment in Existence, and Advantage being sometimes taken of the Ignorance of unintentional Offenders; it was thought proper to place in one Point of View the several Penalties and Forfeitures appointed by this Act, in order to render the Knowledge of them as easy as possible.

Surveyor appointed from the List,	£.	s.	d.
refusing to serve, or neglecting to notify his Acceptance of the Office within Three Days after receiving the Warrant of Appointment — — —	5	0	0

Not

Not on the List, but appointed by the Justices, and refusing to serve,	£.	s.	d.
	2	10	0
Neglecting to fence or slope Gravel-Pits, &c. —	0	10	0
Ditto, after receiving Notice to do it, — —	l.	s.	
	10	to	40
Doing Damage to Bridges, Mills, &c. in digging for Materials, — —	s.	l.	
	20	to	5
Neglecting to keep Accounts or to deliver his Books, Tools, &c. at the Expiration of his Office, —	s.	l.	
	40	to	5
Neglecting to erect Guide-Posts after Order from the Justices for erecting them,	s.		
	20		
General Neglect of Duty for every Offence, —	l.	s.	
	5	to	10
Refusing to account and deliver the Balance in his Hands, — —	Double the said Balance,		
Having Share in any Contract, letting Teams to Hire, or selling Materials without Licence from a Justice, — —	l.	s.	
	10	to	0
Assistant Surveyor refusing to serve, — —	2	10	
Assistant Surveyor, Default of Duty, each Offence,	l.	s.	
	5	to	40
Constables, Churchwardens, &c. refusing or neglecting to make and return annual Lists, and Constables neglecting or refusing to serve Warrants of Appointment,	s.		
	40		

Land-

Landholders incroaching on High-	s.	
ways by ploughing, &c.	40	
For Default in cleansing		
Drains, Ditches, &c. after	s.	
Ten Days Notice, for	10	
every Offence, — —		
For Default in cutting		
Hedges, or cleansing	1d. per Foot, beside	
Ditches, &c. after Twen-	the Expence of	
ty Days Notice, for every	doing it, to be re-	
Offence, — —	paid to the Sur-	
	vayor.	
For Default in cutting down		
or lopping Trees, after	2s. per Tree, and	
Order from a Justice,	Charges of doing	
	it repaid.	
Ditto, in cutting Hedges		
after an Order from a	1d. per Foot, and	
Justice, — —	Charges of doing	
	it repaid.	
Any Person, for leaving Timber,		
Dung, Straw, or Scouring	10s. Or any Person,	
of Ditches in the Road,	by Order of a Jus-	
after Five Days Notice,	tice, may remove	
	such Timber, &c.	
	and appropriate it	
	to his own Use.	
Ditto, leaving Carts, Wag-		
gons, or other Instruments	s.	
of Husbandry in the Road,	10	
Inhabitants and Occupiers for		
Default of Statute-Duty.	s.	d.
For One Team, — —	10	0 per Day.
Cart and two Horses, —	5	0
Cart and One Horse, —	3	0
Labourer, — — —	1	6
Any Person defacing Mile-Stones,		
injuring Bridges, Cause-		
ways, &c. — —	l.	s.
	From 5 to 10	
Any Person drawing with Horses		
above the Number li-		
mitted, — — —	Owner, 5l.	
	Driver, 10s.	

Owner

Owner of Carts and Waggon's,
and of Coaches and Chaises
let to Hire, for Default of
having their Names painted
thereon, — — } $\begin{matrix} l. & s. \\ 5 & \text{to } 20 \end{matrix}$

Drivers of Carriages riding on their
Carriages, or doing Mis-
chief, or refusing to tell
their Names, — — } $\begin{matrix} s. \\ \text{If Owner, } 20 \\ \text{If Servant, } 10 \end{matrix}$

Toll-Collectors selling Liquors
on Toll-Bridges, — } $\begin{matrix} l. \\ 5 \end{matrix}$

Any Person opposing the Execu-
tion of the Act, — } $\begin{matrix} l. & s. \\ 10 & \text{to } 40 \end{matrix}$

Constable refusing to obey a War-
rant or Precept of any
Justice, — — — } $\begin{matrix} l. & s. \\ 10 & \text{to } 40 \end{matrix}$

Justice's Clerk taking a greater
Fee than is allowed by this
Act, — — — — } $\begin{matrix} l. \\ 10 \end{matrix}$

T H E
S C H E D U L E

(Stating the Forms) to which this Act refers.

No. I.

Warrant for calling the Meeting of the Householders, &c. and for fixing that of the Justices for appointing Surveyors.

Middlesex. *To the Constables, Headboroughs, and Tythingmen, within the (Hundred) Riding) Division) Liberty) or Precinct) as the Case shall be) of in the said County.*

IN order to carry into Execution an Act, made in the Thirteenth Year of the Reign of his Majesty King George the Third, for the Amendment and Preservation of the Public Highways, you are hereby severally required forthwith to give public Notice to the Churchwardens, Surveyors of the Highways, and Householders, being assessed to any parochial or public Rate within your respective Liberties, that they do assemble on the Twenty-second Day of September next, at the Church or Chapel, or if there shall be no Church or Chapel, then at the usual Place of public Meetings within their respective Liberties, at the Hour of Eleven in the Forenoon; and that the major Part of them so assembled

bled do make a List of the Names of at least Ten Persons living therein, who each of them have an Estate in Lands, Tenements, or Hereditaments, lying within the same, in their own Right, or in the Right of their Wives, of the Value of Ten Pounds by the Year; or a personal Estate of the Value of One Hundred Pounds; or are Occupiers or Tenants of Houses, Lands, Tenements, or Hereditaments, of the yearly Value of Thirty Pounds: And if there shall not be Ten Persons having such Qualifications, then that they do insert in such List the Names of so many of such Persons as are so qualified, together with the Names of the most sufficient and able Inhabitants not so qualified, as shall make up the Number Ten, if so many can be found, if not, so many as shall be there resident, to serve the Office of Surveyor of the Highways: And you are also severally required, within Three Days after making the said List, to deliver a Copy thereof to One of the Justices of Peace of the said (*Hundred*) *Riding*) *Division*, &c.) as the Case shall be) living in or near the same (*Parish*, &c.); and also to give personal Notices to, or cause Notices in Writing to be left at the Places of Abode of the several Persons contained in such List, informing them of their being so named, to the Intent that they may severally appear before the said Justices, at their special Sessions to be holden at within the said (*Hundred*, &c.)

on the Days of now next
ensuing, at the Hour of in the Forenoon
of the same Day, to accept such Office, if they shall be appointed thereto, or to shew Cause, if they have any, against their being appointed; and you are likewise to give Notice to the present Surveyors of the Highways, within your respective Liberties, to appear at the same Time and Place, and produce such Accounts and Lists before the said Justices, as are required by the said Act; and you, and each of you, are personally to appear before the said Justices at their said Special Sessions, and then and there

there severally deliver to the said Justices the said original List or Lists taken within your respective Liberties, and give an Account of the Execution of this our Precept.

Given under our Hands and Seals, the Day
of in the Year of our Lord, 17

No. II.

List of Persons to be returned to the Justices.

A List of the several Persons named for Surveyors of the Highways for the [insert the Name of the Parish, Township or Place] at a Meeting held at in the said (Parish, etc.) the
Day of 17

A. B.
C. D. etc.

This to be added
when a particular Person is recommended.

WE whose Names are subscribed, being Two Parts in Three of the Persons assembled at the Meeting aforesaid, do agree in the Choice of *A. B.* as a fit Person to serve the Office of Surveyor for the (*insert the Parish, &c.*) aforesaid, and in the Allowance to him of for his Trouble in executing the same for the Year ensuing; and we do recommend the said *A. B.* to the Justices for their Appointment accordingly.

No. III.

Notice to the Persons contained in the List.

A. B. take Notice, That you was at a Meeting held at (*insert the Name of the Parish, &c.*) on the Day of named as One of the Persons to be returned to the Justices as fit to serve the Office of Surveyor for the said (*Parish, etc.*) for the Year ensuing; and if you have any Cause to shew why you should not be appointed

pointed to serve such Office, you must make the same appear before the Justices, at their Special Sessions, to be holden at _____ on the Day of _____ next.

A. B. { Constable,
Headborough, or
Tithingman,
(as the Case shall be.)

No. IV.

Order to the (*Constable, &c.*) to return to the Justices the Amount of a Sixpenny Assessment.

Middlesex. *To the* (*Constable, &c.*) of

YOU are hereby required to return to us, and the other Justices, to be assembled at the Special Sessions to be held at _____ for the (*Hundred, &c.*) of _____ in the said County, on the _____ Day of _____ next, the Amount of the last Assessment of Sixpence in the Pound for the Use of the Highways within your Liberty, if any such has been raised; if not, what you apprehend, from the best information you can get, an equal Assessment of Sixpence in the Pound upon all and every the Occupiers of Lands, Tenements, Woods, Tithes, and Hereditaments, within the said Liberty, according to their yearly Value, will amount to.

Given under our Hands this _____ Day of _____ 17

No. V.

Return to the Justices of the Amount of a Sixpenny Assessment.

To the Justices, assembled at the Special Sessions at the _____ Day of _____ 17

IN Obedience to your Order, I do return and certify, that the last Assessment of Sixpence in the Pound, for the Use of the Highways within the Liberty of _____ amounted to the Sum of _____

[If no Assessment of Sixpence in the Pound hath been made, then as under.]

IN Obedience to your Order, I do return and certify, that no Assessment hath been made of Sixpence in the Pound, for the Use of the Highways within the Liberty of but I apprehend, from the best Information which I have been able to get, that an equal Assessment of Sixpence in the Pound, upon all the Occupiers of Lands, Tenements, Woods, Tithes, and Hereditaments, within the said Liberty, will amount to the Sum of

A. B. (Constable, &c.)

No. VI.

Appointment of a Surveyor.

Middlesex. *At a Special Sessions held at*
in the Hundred of *by Justices of*
the Peace for the said County, acting within the
said Hundred, on the *Day of*

17

WE do hereby nominate and appoint A. B. &c. of [Insert the Name of the Parish, &c. where he lives] in the said Hundred, Surveyor (or Surveyors) of the Highways within the said (Parish, &c.) for the Year ensuing; (and we do allow the said A. B. the Salary of for his Trouble); and you the said A. B. are faithfully and truly to execute the said Office of Surveyor, according to the Directions of the Statute, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways," an Abstract of the material Parts of which Statute is hereunto annexed.

Given under our Hands and Seals, the Day and Year above-mentioned.

This to be inserted when a Surveyor is appointed with a Salary.

†

No. VII.

No. VII.

Bond from the Surveyor.

WE *A. B.* Surveyor of the Highways for the
(*Parish, Township, etc.*) of
and *C. D.* of are bound to *E. F.*
of aforesaid, in the Sum of
Pounds, to be paid to the said *E. F.* his Execu-
tors, Administrators, or Assigns; for which Pay-
ment we hereby bind ourselves severally, and each
of our Heirs, Executors, and Administrators.

Dated the Day of 17

The Condition of this Bond is such, that if the
said *A. B.* his Executors or Administrators, shall
duly and faithfully account for, apply, and pay,
all and every the Sum and Sums of Money which
shall come to his Hands, as Surveyor of the High-
ways for the (*Parish, etc.*) according to the Di-
rection and true Intent and Meaning of the Sta-
tute, made in the Thirteenth Year of the Reign of
His Majesty King *George* the Third, "For the
" Amendment and Preservation of the Highways,"
then this Bond to be void, or else to remain in full
Force.

No. VIII.

Appointment of an Assistant to the Surveyor.

Middlesex. At a Special Sessions, held at
in the Hundred of by
Justices of the Peace for the said County, acting
within the said Hundred, on the Day
of 17

WE do hereby nominate and appoint *C. D.*
a substantial Inhabitant of the (*Parish,*
etc.) of in the said Hundred, As-
sistant to *A. B.* whom we have appointed Surveyor
of the Highways for the said (*Parish, etc.*) and
G you

you the said *C. D.* are, to the best of your Skill and Judgment, to assist the said Surveyor, whenever requested by him, in calling in and attending the Performance of the Statute-Duty, in collecting the Compositions, Fines, Penalties, and Forfeitures, and in making and collecting the Assessments, and in making out, and serving, the Notices authorised by the Act, passed in the Thirteenth Year of the Reign of His Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," and in such other Matters and Things as shall be reasonably required of you by the said Surveyor, in the Execution of his Office of Surveyor, pursuant to the said Act; and you are justly and truly to account with, and pay to, the said Surveyor, or to his Order, the Money which shall come to your Hands by the Means aforesaid.

Given under our Hands and Seals, the Day and Year above mentioned.

No. IX.

Oath to be administered to the Surveyor upon passing his Accounts.

I *A. B.* do swear, that the Accounts now produced and delivered by me, as Surveyor of the Highways for the (*Parish, etc.*) of *_____* for the last Year, are just and true, to the best of my Knowledge.

So help me GOD.

No. X.

Allowance of the Accounts.

October, 17
THESE Accounts were examined and allowed before

No. XI.

No. XI.

Notice from the Surveyor to remove Nuisances and Obstructions, and to cut Hedges, &c.

To C. D. of

I N pursuance of the Directions given by the Act passed in the Thirteenth Year of the Reign of His Majesty King George the Third, "For the Amendment and Preservation of the Highways," I A. B. Surveyor of the Highways for the (*Parish, etc.*) of do hereby give you Notice, forthwith to remove the (*Dung*) Timber Stone, etc.) placed by you in a certain Part of the King's Highway, lying between and in the (*Parish, etc.*) of

To remove Nuisances and Obstructions.

to the Obstruction and Annoyance of the said Highway: or, (forthwith to cut, prune, and plash the Hedges, and cut or prune the Trees, and to open, cleanse, and scour the several Ditches and Watercourses, belonging to you) in or near the Highway, lying between and

To cut and prune Hedges, and to cut or prune Trees, and to open and scour Ditches and Water-courses.

to the Intent that the Water may be drained from the said Highway, and that the Sun and Wind may not be excluded from such Highway, to the Prejudice thereof.

Dated this Day of 17
A. B.

No. XII.

Allowance of Charges and Expences paid by Surveyors, which are to be repaid by the Possessors of the Lands, etc. and Order of the Justice for that Purpose.

Middlesex. WHEREAS Complaint hath been made unto me A. B. Esquire, one of his Majesty's Justices of Peace for the said County,
G 2

County, by the Oath of Surveyor
of the Highways for the Parish of in
the said County, that *C. D.* of having
had due Notice to cut and prune his Hedges, and
cleanse and scour his Ditches and Watercourses,
within or adjoining to the public Highway between
and in the said Parish
of hath neglected to do the same with-
in the Time required by such Notice, and that the
said hath caused the same respec-
tively to be cut, pruned, cleansed, and scoured,
pursuant to the Directions of the Act, passed in
the Thirteenth Year of the Reign of his Majesty
King *George* the Third, "For the Amendment and
"Preservation of the Highways," and hath ex-
pended therein the Sum of as appears
by an Account now produced to me, which I
think a reasonable Charge, and do therefore allow
the same, and hereby order the said *C. D.* to pay
the said Sum of to the said
within Six Days from the Time of his be-
ing served with this Order.

Given under my Hand and Seal, this
Day of 17

No. XIII.

Order of a Justice of Peace to make new
Drains.

Middlesex. To *C. D.* of Surveyor
of the Highways for the (Parish, etc.) of

WHEREAS Complaint hath been made to
me *A. B.* Esquire, One of his Majesty's
Justices of the Peace for the said County, that the
Ditch, Gutter, or Watercourse, for conveying
the Water from the Highway at in the
(Parish, etc.) of in the said County,
is not sufficient for that Purpose, and that the
cleansing and opening the same will not effectually
carry

carry off the said Water, but that the said Highway may be effectually drained, and the Water carried off, by making a new Ditch or Drain through the Lands or Grounds of lying near the same, for the Length of Yards, and the Breadth of Feet; and the said having been duly summoned to appear before me, to shew Cause, if he had any, why the said Ditch or Drain should not be made, and the said not appearing, (or not shewing sufficient Cause against the same) and it appearing to me that such Ditch or Drain is necessary, I do hereby order and require you to enter into and upon the said Lands of the said

and there make, or cause to be made, a new Ditch or Drain, of the Length and Breadth aforesaid, and of a convenient Depth, making or tendering sufficient Satisfaction to the said

for the Damages to be done thereby, within one Calendar Month after the same shall be so made; such Damages to be settled and ascertained in Manner directed by the Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, "For the Amendment and "Preservation of the Highways."

Given under my Hand, this Day of 17

No. XIV.

Notice of Application to be made for an Assessment.

Middlesex. NOTICE is hereby given, that Application will be made to the Justices of the Peace acting for the (*Hundred*) of in the said County, at their Special Sessions, to be held at in the said (*Hundred*), on the Day of One thousand Seven hundred for an equal Assessment to be made, not exceeding in the Pound, upon all and every the Occupiers

piers of Lands, Tenements, Woods, Tithes, and Hereditaments, within the (*Parish, etc.*) of
for the Use and Benefit of the Highways, within the said (*Parish, etc.*)

Dated this Day of 17
A. B. Surveyor.

No. XV.

Order at a Special Sessions for an Assessment of Sixpence in the Pound.

Middlesex. *At a Special Sessions for the Highways, held at in the Hundred of in the said County, the Day of 17 by Justices of Peace for the said County acting within the said Hundred.*

UPON Application made to us by the Surveyor of the Highways for the (*Parish, etc.*) of and upon Evidence given upon Oath before us, (that the Duty directed to be performed, and the Money authorised to be collected and received, by an Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, "For the Amendment and Preservation of the "Highways," have been performed, applied, and expended, according to the Directions of the said Act :) Or, (we are fully satisfied, that the common Highways, Bridges, Causeways, Streets, and Pavements, belonging to the (*Parish, etc.*) of are so far out of Order, that they cannot be sufficiently amended and repaired, paved, cleansed, and supported, by the Means prescribed by the said Act :) And it appearing to us, that Notice has been duly given of such intended Application, according to the Direction of the said Act, we do hereby order, direct, and appoint, that an equal Assessment, not exceeding the Sum of in the Pound, upon all and every the Occupiers of Lands, Tenements, Woods, Tithes, and Hereditaments,

If no Assessment has been made for buying Materials, &c. this may amount to 9d. in the Pound; but if a Sixpence Assessment had been made before, it must be only 3d.

taments, within the said (*Parish, etc.*) of
shall be forthwith made by the said Surveyor, and shall be allowed by one Justice of the Peace for the said Hundred, and shall be collected by the said Surveyor, and that the Money so to be assessed and collected shall be applied for and towards the amending, repairing, paving, cleansing, and supporting such Highways, Causeways, Streets, Pavements, and Bridges (*and for buying Materials, making Satisfaction for Damages, erecting Guide-Posts, and paying the Surveyor's Salary*), according to the Direction and true Intent and Meaning of the said Act.

These latter Words may be added here, if there has been no former Assessment for those Purposes.

A. B.
C. D.

No. XVI.

Order of two Justices for (*widening*) or (*diverting and turning*) a Highway.

Middlesex. **W**E Two of his Majesty's Justices of the Peace for the said County, acting within the (*Hundred, etc.*) of within the said County, having, upon View, found that a certain Part of the Highway between and in the (*Parish, etc.*) of in the said (*Hundred*), for the Length of Yards, or thereabouts, and particularly described in the Plan hereunto annexed, is, for the greatest Part thereof, (*When it is only narrow, and cannot be conveniently enlarged and made commodious for Travellers, without diverting and turning the same; and having viewed a Course proposed for the said new Highway, through the Lands and Grounds of and of the Length of Yards, or thereabouts, and of the Breadth of Feet, or thereabouts, particularly described in the Plan hereunto annexed, which we think will be much more commodious to the Public; we do hereby order, that the*

(When it is only to be widened, leave out the Words in Italic, and insert), But may be conveniently enlarged and widened, by adding thereto from or widened and enlarged.

said Highway be *diverted and turned* through the Lands aforesaid; and that the Surveyor of the Highways for the (*Parish, etc.*) of _____ where the said old Highway lies, do forthwith proceed to treat and make Agreement with the said _____ and _____ for the Recompence to be made for the said Ground, and for the making such Ditches and Fences as shall be necessary, in such Manner, with such Approbation, and by pursuing such Measures and Directions in all Respects, as are warranted and prescribed by the Statute, made in the Thirteenth Year of the Reign of his Majesty King George the Third, "For the Amendment and Preservation of the Highways:" And in case such Agreement shall be made as aforesaid, we do order an equal Assessment, not exceeding the Rate of Sixpence in the Pound, to be made, levied, and collected, upon all and every the Occupiers of Lands, Tenements, Woods, Tithes, and Hereditaments, in the said (*Parish, etc.*) of _____ and that the Money arising thereupon be paid and applied in making such Recompence and Satisfaction, as aforesaid, pursuant to the Directions of the said Act.

A. B.

C. D.

No. XVII.

Certificate from the said Justices to the Court of Quarter Sessions.

This is to be wrote upon the above Order, when no Agreement can be made.

To the Justices of the Peace, at their General Quarter Sessions, to be held at _____ in the said County, the _____ Day of _____ 17

WE the within named A. B. and C. D. do hereby certify to the said Court of Quarter Sessions, that we made and signed the within Order, and that with our Approbation, and by our Direction, the said Surveyor hath treated with the said _____ and _____ for the said Lands required for the Purposes aforesaid, but was not able to

to make any Agreement for that Purpose with them, or either of them; and that he tendered to the said the Sum of and to the said the Sum of as a Recompence for the said Ground, and for the making the said Ditches and Fences, which they, and each of them, refused to receive.

A. B.

C. D.

No. XVIII.

Order for stopping up the old Highway, and selling the Land and Soil thereof.

WE whose Names are subscribed, being the Justices of Peace who have viewed the several Highways described in the Plans hereunto annexed, and made an Order for diverting the old Highway; and being satisfied that the new Highway therein described is properly made, and fit for the Reception of Travellers, do hereby order the said old Highway, being of the Length of Yards, and of the Breadth of Feet, upon a Medium, as appears by the said Plan, to be stopped up, and the Land and Soil thereof to be sold by the said Surveyor to whose Land adjoins thereto, if he shall be willing to purchase the same, for the full Value thereof, if not, to some other Person or Persons, for the full Value thereof: (Reserving nevertheless to a free Passage for Persons, Horses, Cattle, and Carriages, through the Land and Soil of the said old Highway to and from the (Land, etc.) belonging to him, called according to his antient Usage thereof.)

If there are more Highways than One to be stopped up, there should be a separate Order for each.

This is to be inserted where necessary, and to be varied as the Circumstances of the Case may require.

No. XIX.

Certificate to be wrote under the Order above mentioned.

WE, the above-named Justices, do certify, That the old Highway, herein before mentioned

mentioned and described, was sold by the said Surveyor to _____ with our Approbation, for the Sum of _____ which Sum we do order the said _____ to pay to the said Surveyor, to be applied in purchasing the Land, and making the said new Highway; and if any Surplus remains, we do order that the same shall be applied for the Use of the Highways within the said (*Parish, etc.*) of _____

No. XX.

Receipt for the Purchase-Money, to be indorsed upon, or wrote under, the Certificate above mentioned.

RECEIVED the _____ Day of _____ from the said _____ the Sum of _____ being the full Consideration-Money for the Purchase of the said old Highway herein before described, pursuant to the said Orders and Certificate.

No. XXI.

Order of two Justices for diverting and turning a (*public Highway, Bridleway, or Footway, as the Case shall be*) through the Lands of any Person who consents thereto.

Middlesex. **W**E _____ and _____ Esquires, Two of his Majesty's Justices of Peace for the said County, at a Special Sessions, held at _____ in the Hundred of _____ in the said County, on the _____ Day of _____ One Thousand Seven Hundred _____ having, upon View, found, that a certain Part of a (*Highway, etc.*) within the (*Parish, etc.*) of _____ in the said Hundred, lying between _____ and _____ for the Length of _____ Yards, or thereabouts, and particularly described in the Plan hereunto annexed, may be diverted and turned so as to make the same nearer (or, *more commodious*) to the Publick; and having viewed a Course, proposed _____

posed for the new Highway, in Lieu thereof,
 through the Lands and Grounds of
 of the Length of Yards, or there-
 abouts, and of the Breadth of Feet, or
 thereabouts, particularly described in the Plan
 hereunto annexed, and having received Evidence
 of the Consent of the said to the said
 new Highway being made through his Lands
 herein before described, by Writing under his
 Hand and Seal, we do hereby order that the said
 Highway be diverted and turned through the Lands
 aforesaid; and we do order an equal Assessment,
 &c. (*in the same Form as before mentioned.*)

No. XXII.

Consent from the Owners of the Land through
 which a new Highway is proposed to be
 made.

I *A. B.* of in the County of be-
 ing Owner of the Lands described in the Plan
 hereunto annexed, through which Part of a cer-
 tain Highway, lying between and
 is intended to be diverted and turned, (in Con-
 sideration of the Sum of to be
 paid to me for the said Land, and the Soil thereof);
 or, (in Consideration of the said old Highway being
 sold, exchanged, and to be vested in me, and also
 of the Sum of to be paid to me)
 (*as the Case may be*), do hereby consent to the mak-
 ing and continuing such new Highway through my
 said Lands.

Given under my Hand and Seal, this
 Day of 17

No. XXIII.

No. XXIII.

Licence from Justices of Peace, at a Special Sessions, to get Materials for the Repair of the Highways in another Parish, besides that wherein such Materials are to be employed.

Middlesex. *At a Special Sessions, held at
for the (Hundred) of in the said
County, by Justices of the Peace for the said
County acting within the said (Hundred) on the
Day of* 17

IT appearing to us, upon Evidence, this Day received, that sufficient Materials cannot conveniently be had within the waste Lands, common Grounds, Rivers, or Brooks, nor in the inclosed Lands or Grounds lying within the (*Parish, etc.*) of *A.* in the said (*Hundred*) for the Repair of the Highways within the said (*Parish, etc.*) nor in the waste Lands, common Grounds, Rivers, or Brooks, within the (*Parish*) of *B.* adjoining to the said (*Parish, etc.*) of *A.* we do hereby give our Licence to the Surveyor for the said (*Parish*) of *A.* to search for, dig, get, and carry Sand, Gravel, Chalk, Stone, and other Materials, within the inclosed Lands or Gaounds of *C. D.* within the said (*Parish, etc.*) of *B.* to be employed in the Repair of the Highways within the said (*Parish*) of *A.* it appearing from Evidence laid before us, that there are proper Materials within the said Lands for the Purposes aforesaid, lying convenient to the said Highways; and that after such Materials shall be so taken there will be sufficient left for the Use of the Highways within the said (*Parish*) of *B.* upon the said Surveyors making Satisfaction and Recompence for the same, in the Manner directed by the Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, “ For the
“ Amend-

"Amendment and Preservation of the Highways,"
subject to such Restrictions as are therein contained.

Given under our Hands and Seals, the Day and
Year above written.

A. B.

C. D.

No. XXIV.

Licence from a Justice of Peace, for a Surveyor to gather Stones upon inclosed Lands, for the Repair of the Highways.

Middlesex. To the Surveyor of the Highways for the
(Parish) of in the (Hundred) of
in the said County.

WHEREAS by an Act, passed in the Thirteenth Year of the Reign of his Majesty King *George* the Third, "For the Amendment and Preservation of the Highways," the Surveyors are authorized to gather Stones lying upon any Lands or Grounds within their Liberty, for the Use and Benefit of the Highways, but not without the Consent of the Occupiers of such Lands, or a Licence from a Justice of Peace for that Purpose; And whereas it appears to me *E. F.* one of his Majesty's Justices of the Peace for the said County, and acting within the said (*Hundred, etc.*) upon the Oath of the said Surveyor, that he hath applied to *A. B.* of _____ for his Consent to gather Stones from the Lands called or known by the Names of _____ and _____ in his Occupation, within the said (*Parish, etc.*) for the Purposes aforesaid, and that the said Stones are necessary for the Repair of the said Highways, and that the said *A. B.* hath refused to permit the same to be gathered; and the said *A. B.* having been duly summoned to appear before me, to shew Cause why such Permission should not be granted, and (*having appeared before me accordingly*); or, (*having sent his Steward or Agent*); or, (*C. D. on his Behalf*;

half, to attend me upon that Occasion); or, but not having appeared) I have heard what has been alleged, and taken the said Matter into Consideration, and am of Opinion, that the said Stones are necessary, and ought to be gathered and carried away for the Purposes aforesaid; and therefore I do hereby give my Licence to the said Surveyor to take and carry away the same accordingly.

Given under my Hand and Seal, the
Day of 17

No. XXV.

Notice to perform Statute-Duty, (to be given
Four Days before the Day on which the
Duty is to be performed.)

If he does not
occupy Lands,
&c. of the yearly
Value of 30*l.* in
such Parish, &c. and
he is only to
send One Man.

If a Waggon, or
a Cart with Two
Horses, or One
Horse only, is
required, let it
be expressed.

A. **B.** you are hereby required to send a Team,
with two able Men, to within the
(Parish, etc.) of on the
Days of next, at
o'Clock in the Morning of each
Day, in order to perform such Duty upon the
Highways within the said as shall be
required by the Surveyor, pursuant to the Direc-
tion of the Act, passed in the Thirteenth Year of
the Reign of his Majesty King George the Third,
“ For the Amendment and Preservation of the
“ Highways.” (When personal Labour is required),
You are hereby required, by yourself, or a suffi-
cient Labourer, to attend, &c.

Dated this Day of 17

No. XXVI.

Notice for Compositions.

NOTICE is hereby given, That all Persons
who are inclined to compound for their Sta-
tute-Duty within the (Parish, &c.) of
are hereby required to signify their Intention to
compound for the same to

the

the Surveyor of the Highways for the said (*Parish, &c.*) at the House of _____ of _____ on the _____ Day of this Instant *November*, between the Hours of _____ and _____ and they are hereby required, at the same Time, or within the Space of one Month after, to pay their Composition-Money to the said Surveyor; and also, that all Persons who are liable to pay Money for the Lands, Tenements, Woods, Tithes, and Hereditaments, which they occupy, or in Lieu of their Duty within the said (*Parish, etc.*) according to the Act made in the Thirteenth Year of his Majesty King *George the Third*, "For the Amendment and Preservation of the Highways," are required to pay the same to the said Surveyor, on the Day, or within the Time aforesaid.

Dated this _____ Day of *November*, 17 _____
A. B. Surveyor.

No. XXVII.

Order for Statute-Duty to be performed in
Kind.

Middlesex. *At a Special Sessions, held at*
in the (Hundred) of _____ in the said
County, the _____ Day of _____ 17 by
Justices of the Peace for the said County, acting
within the said (Hundred).

IT appearing to us, from the Information which we have received, that there will be a Difficulty in procuring the necessary (*Carriage*), or, (*a sufficient Number of Labourers*) (*as the Case shall be*) for the Repair of the Highways within the (*Parish, etc.*) of _____ within the said (*Hundred*) without paying high and extravagant Prices for the same, we do hereby order and direct (the Team-Duty within the said (*Parish, etc.*) except such Teams where the Owners thereof do not occupy Lands, Tenements, Woods, Tithes, or Hereditaments, within the said (*Parish, etc.*) of the annual Value _____ of _____

of Thirty Pounds,) or, (one Half of the Team-Duty, etc.) or, (the Labourers liable to perform Statute-Duty within the said (Parish, etc.) (as the Case shall be) to perform Statute-Duty in Kind within the said (Parish, etc.) according to the Authority and Directions of the Act, passed in the Thirteenth Year of the Reign of His Majesty King George the Third, "For the Amendment and Preservation of the Highways."

No. XXVIII.

Notice to the Surveyor of the Times fixed by the Inhabitants for being excused from doing their Statute-Duty.

To the Surveyor of the Highways for the (Parish, etc.)
of in the County of

I A. B. (Constable) Headborough) Tithingman), of the said (Parish, etc.) do hereby give you Notice, That the Inhabitants of the said (Parish, etc.) did, at a Vestry or Public Meeting, held on the Day of One Thousand Seven Hundred agree to take the Benefit of the Indulgence of Three Months, for not performing their Statute-Duty given by the Legislature, in the Act passed in the Thirteenth Year of the Reign of His Majesty King George the Third, "For the Amendment and Preservation of the Highways," at the Times following; *videlicet*, That they shall not be called upon to perform such Duty between the Day of and the Day of (which they consider as the Seed-Month), nor between the Day of and the Day of (which they consider as the Hay-Harvest Month), nor between the Day of and the Day of (which they consider as the Corn-Harvest Month): [The like Notice to be given to the Surveyor or Surveyors of the Turnpike Roads, where there are any such within the (Parish, etc.)]

No. XXIX.

Order of the Justices at their Special Sessions,
for the Repair of certain Highways which
most want Repair.

Middlesex. *At a Special Sessions, held at*
in the (Hundred) of *in the said*
County, the *Day of* *17*
by Justices of the Peace for the said County acting
within the said (Hundred).

To the Surveyors of the Highways for the (Parish, etc.)
of *in the said (Hundred.)*

IT appearing to us, That the Highway, lying
between and within
your Liberty, is very founderaus, and in bad Re-
pair, and being of great public Use, we do hereby
order that you repair, or cause the same to be re-
paired, before the Day of
next.

Given under our Hands and Seals, this
Day of 17

No. XXX.

A Precept for erecting Guide-Posts, etc.

Middlesex. *At a Special Sessions, held at*
for the (Hundred) of *in the said*
County, before Justices of the Peace for the said
County, acting within the said (Hundred), on
the *Day of* *17*

To the Surveyor of the (Parish) of *in the said*
(Hundred).

YOU are hereby required forthwith to erect, or
cause to be erected, in the most convenient
Place upon the Highway lying between
and within your Liberty, where the
Roads cross or branch out, a Guide-Post, with
proper Inscriptions painted on both Sides thereof,
H in

in large legible Letters, denoting the Towns of
and (or other Places, as the
Justices shall think most proper).

[Where graduated Stones or Posts are necessary to
prevent Accidents from deep Waters, vary it as under:]

[In the most convenient Place upon the Highway,
at the Approach or Entrance on each Side of the
Ford or Water called at
within your (Liberty) graduated Posts, denoting
the Depth of Water in the deepest Part thereof,
through which such Highway passes; and you are
allowed to charge the reasonable Expences of pro-
viding and erecting the same in your Accounts.]

A. B.

C. D.

No. XXXI.

Notice for holding a Vestry, or other public
Meeting.

NOTICE is hereby given, That a Vestry or
public Meeting will be held at on
the Day of next, at the
Hour of in the noon, in order to
consult about the Times when it will be most con-
venient for the Inhabitants of this (Parish, etc.) to
be excused from being called forth to perform their
Statute-Duty, according to the Indulgence given
them by the Act, passed in the Thirteenth Year of
the Reign of his Majesty King George the Third,
“For the Amendment and Preservation of the
“Highways.”

Dated the Day of 17

A. B. (Constable,) (Headborough,) etc.

No. XXXII.

Presentment by a Justice of Peace.

Middlesex. AT the General Quarter Sessions of
the Peace of our Lord the King,
held for the said County, at in the
said

said County, on (*Tuesday*) the Day of
 in the Year of the Reign
 of before Esquires,
 and others, their Companions, Justices of our said
 Lord the King, assigned to keep the Peace in the
 said County, and also to hear and determine divers
 Felonies, Trespasses, and other Misdemeanours in
 the said County committed; *A. B.* Esquire, one of
 the Justices of our said Lord the King, assigned for
 the Purposes aforesaid, by Virtue of an Act, made
 in the Thirteenth Year of the Reign of his Majesty
 King *George* the Third, "For the Amendment and
 "Preservation of the Highways," (upon his own
 View), or, upon Information, upon Oath, to him
 given by *C. D.* Surveyor of the Highways for the This to be in-
 ferted where it
 is upon the In-
 formation of the
 Surveyor.
 (*Parish, etc.*) of in the said
 County) doth present, that from the Time whereof
 the Memory of Man is not to the contrary, there
 was, and yet is, a certain common and ancient
 King's Highway, leading from the Town of
 in the said (*County, etc.*) towards and unto
 within the same (*County*) used for all the King's
 Subjects, with their Horses, Coaches, Carts, and
 Carriages, to go, return, and pass, at their Will;
 and that a certain Part of the said King's common
 Highway, commonly called situated,
 lying and being in the (*Parish, etc.*) of
 in the same (*County*) containing in Length
 Yards, and in Breadth Feet, on the
 Day of in the Year of the Reign
 of and continually afterwards until the
 present Day, was, and yet is, very ruinous, deep,
 broken, and in great Decay, for want of due Re-
 paration and Amendment, so that the Subjects of
 the King, through the same Way, with their
 Horses, Coaches, Carts, and Carriages, could not,
 during the Time aforesaid, nor yet can, go, return,
 or pass, as they ought and were wont to do, to the
 great Damage and common Nuisance of all the
 King's Subjects through the same Highway, going,
 returning, or passing, and against the Peace of our

said Lord the King, and that the Inhabitants of the
(*Parish, etc.*) of aforesaid, in the
(*County*) aforesaid, the said common Highway (*so*
in Decay) ought to repair and amend, when and so
often as it shall be necessary.

In Testimony whereof, the said *A. B.* to these
Presents hath set his Hand and Seal, this
Day of in the Year aforesaid.

No. XXXIII.

Summons for any Person or Persons to attend
a Justice or Justices.

Middlesex. To *A. B.* of

WHEREAS Complaint and Information hath
been made upon Oath before me *C. D.* One
of his Majesty's Justices of the Peace for the said
(*County, etc.*) by *E. F.* of That, *etc.*

[*Here state the Nature and Circumstances of the Case,*
as far as it shall be necessary to shew the Offence, and to
bring it within the Authority of the Justice, and in do-
ing that, follow the Words of the Act as near as may
be.] These are therefore to require you personally

to appear before me, (or the Justices, to be assem-
bled at their Special Sessions to be holden) at
in the said (*County, etc.*) on the

Day of next, at the Hour of in
the noon, to answer to the said Complaint
and Information, made by the said *E. F.* who is
likewise directed to be then and there present, to
make good the same: Herein fail not.

Given under my Hand and Seal, this
Day of 17

No. XXIV.

Information.

Middlesex. BE it remembered, That on the
Day of 17 *A. B.* of
in the said County, informeth and maketh
Oath

Oath before me One of his Majesty's Jus-
tices of the Peace for the said County, that
of in the said County, [*Here describe the*
Offence, and if it is for Default in performing Statute-
Duty, state the Duty required, and the Notice given
for that Purpose, and the Neglect according to the Fact,
and as near the Words of the Act as may be,] con-
trary to the Statute made in the Thirteenth Year
of the Reign of his Majesty King George the Third,
"For the Amendment and Preservation of the
"Highways," which hath imposed a Forfeiture
of for the said Offence.

A. B.

Taken and sworn, the }
Day of before me, }

No. XXXV.

Form of a Conviction.

Middlesex. BE it remembered, That on the
Day of in the Year of our
Lord, 17 at in the County afore-
said, A. B. came before me C. D. Esquire, One of
his Majesty's Justices of the Peace for the said
County, and informed me, that E. F. of
on the Day of now last past,
at in the said County, did [*Here set forth the*
Fact in the Manner described by the Statute,] where-
upon the said E. F. after being duly summoned to
answer the said Charge, appeared before me
on the Day of at
in the said County, and having heard the Charge
contained in the said Information, declared, that he
was not guilty of the said Offence; but the same
being fully proved upon the Oath of G. H. a cre-
dible Witness, it manifestly appears to me the said
Justice, that the said E. F. is guilty of the Offence
charged upon him, in the said Information: It is
therefore considered and adjudged by me, the said
Justice, that the said E. F. be convicted, and I do
hereby convict him of the Offence aforesaid; and I

H 3 do

do hereby declare and adjudge that he the said *E. F.* hath forfeited the sum of _____ of lawful Money of *Great Britain*, for the Offence aforesaid, to be distributed as the Law directs, according to the Form of the Statute in the Case made and provided.
Given, &c.

This to be inserted where the Party refuses to appear upon the Summons.

After the Words, " Being duly summoned to answer to the said Charge," *insert*, (did not appear before me, pursuant to the said Summons) : *or* (did neglect and refuse to make any Defence against the said Charge ; but the same being fully proved, &c.) *as before*.

This to be inserted when the Party accused confesses the Charge.

After the Words, " Contained in the said Information," *insert*, (acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me, the said Justice, &c.) *as above*.

No. XXXVI.

Warrant to distrain for the Forfeiture.

Middlesex. *To the* (Constable) Headborough) *or*
'Tithingman) *of*

WHEREAS *A. B.* of _____ in the said County (*Yeoman*), is this Day convicted before me, *C. D.* Esquire, one of his Majesty's Justices of the Peace in and for the said County, upon the Oath of *G. H.* a credible Witness, for that the said *A. B.* hath, [*Here set forth the Offence, describing it particularly in the Words of the Statute, as near as may be*], contrary to the Statute in that Case made and provided, by reason whereof the said *A. B.* hath forfeited the Sum of _____ to be distributed as herein is mentioned, which he hath refused to pay : These are therefore, in his Majesty's Name, to command you to levy the said Sum of _____ by Distress of the Goods and Chattels of him the said *A. B.* and if within the Space of Four Days next after such Distress by you taken,
6 the

the said Sum, together with the reasonable Charges of taking and keeping the same, shall not be paid, that then you do sell the said Goods and Chattels so by you distrained, and out of the Money arising by such Sale, that you do pay One Half of the said Sum of to *E. F.* of who informed me of the said Offence, and the other Half of the said Sum of to *J. K.* the Surveyor of the Highways, for the (*Parish, Township, or Place*) where the said Offence, (*Neglect, or Default*) happened, to be employed towards the Repair of the said Highways, returning the Overplus, upon Demand, to him the said *A. B.* (the reasonable Charges of taking, keeping, and selling the said Distress, being first deducted); and if sufficient Distress cannot be found of the Goods and Chattels of the said *A. B.* whereon to levy the said Sum of that then you certify the same to me, together with this Warrant.

This to be varied according to the Act, in each particular Case.

Given under my Hand and Seal, the
of 17

C. D.

No. XXXVII.

Return of the Constable to be made upon the Warrant of Distress, when there are no Effects.

I *A. B.* Constable of the (*Parish, etc.*) of in the (*County*) of do hereby certify and make Oath, That, by Virtue of this Warrant, I have made diligent Search for the Goods of the within named and that I can find no sufficient Goods whereon to levy the within Sum of as Witness my Hand, the

Day of 17

A. B.

Sworn before me, the }
Day and Year, etc. } *C. D.*

No. XXXVIII.

Warrant of Distress for Non-Payment of
Money charged by an Assessment.

Middlesex. *To the* (Constable) Headborough) Tith-
ing-man) of *in the said* (County).

WHEREAS, by an Assessment made upon the
Occupiers of Lands, Tenements, Woods,
Tithes, and Hereditaments, within the (*Parish,*
etc.) of *in the said* (County), for the Pur-
poses of, *etc.* [*as stated in the Justice's Order*], pur-
suant to an Order of Justices for that Purpose, ac-
cording to the Directions of the Act, passed in the
Thirteenth Year of the Reign of his Majesty King
George the Third, "For the Amendment and Pre-
"servation of the Highways," *A. B.* was charged
the Sum of *as his Share and Proportion*
of the said Assessment, in respect of the Lands,
Tenements, Woods, Tithes, and Hereditaments,
which he occupied within the said (*Parish, etc.*) ;
And whereas it appears to me, upon the Oath of
that the said Sum of

hath been duly demanded from the said *A. B.* and
that he hath refused to pay the same for the Space
of Ten Days after such Demand made, these are
therefore, in his Majesty's Name, to command you
to levy the said Sum of *by Distress of*
the Goods and Chattels of the said *A. B.* and if the
same shall not be paid within the Space of Four
Days next after such Distress by you taken, to-
gether with the reasonable Charges of taking and
keeping the same, that you do then sell the said
Goods and Chattels so by you distrained ; and out
of the Money arising by such Sale, that you do pay
unto *C. D.* the Surveyor of the Highways for the
said (*Parish, etc.*) of *the said Sum*
of *to be employed for the Purposes*
aforesaid ; and that you do return the Surplus
thereof to the said *A. B.* (the reasonable Charges
of taking, keeping, and selling the said Distress,
being

being first deducted); and if sufficient Distress cannot be found of the Goods and Chattels of the said *A. B.* whereon to levy the said Sum of that then you certify the same to me, together with this Warrant.

Given under my Hand and Seal, this
Day of 17

No. XXXIX.

Commitment for Want of Distress.

Middlesex. *To the (Constable) of
in the said County, and to the Keeper of the Common Gaol (or, the House of Correction) at
in the said County.*

WHEREAS *A. B.* of in the said
County, (*Yeoman*), was, on the
Day of convicted before me, *C. D.*
Esquire, one of his Majesty's Justices of the Peace
in and for the said County, upon the Oath of *E. F.*
a credible Witness, for that he, the said *A. B.*,
[*Here set forth the Offence*], contrary to the Statute
made in the Thirteenth Year of the Reign of his
Majesty King *George* the Third, "For the Amend-
ment and Preservation of the Highways," by
reason whereof the said *A. B.* hath forfeited the
Sum of And whereas, on the
Day of in the Year aforesaid, I did
issue my Warrant to the (*Constable*) of
to levy the said Sum of by Distress and Sale
of the Goods and Chattels of him the said *A. B.* and
to distribute the same according to the Directions of
the said Statute: And whereas it duly appears to me,
upon the Oath of the said (*Constable*) that the said
(*Constable*) hath used his best Endeavours to levy the
said Sum on the Goods and Chattels of the said
A. B. as aforesaid, but that no sufficient Distress
can be had whereon to levy the same, these are
therefore to command you, the said (*Constable*) of
aforesaid, to apprehend the said *A. B.*
and

and him safely to convey to the Common Gaol, (or *House of Correction*) at _____ in the said County, and there deliver him to the Keeper thereof, together with this Precept; and I do hereby also command you, the said Keeper, to receive and keep in your Custody the said *A. B.* for the Space of Three Months, unless the said Sum shall be sooner paid, pursuant to the said Conviction and Warrant; and for so doing this shall be your sufficient Warrant.

Given under my Hand and Seal, the
Day of _____ in the Year of our
Lord 17

C. D.

In Case of a Commitment for the Want of Payment of Money due by an Assessment, it must be, (to receive and keep in your Custody, until he shall have paid the said Sum of _____ and the farther Sum of _____ being the Cost and Charges occasioned by his Neglect in paying the same.)

No. XL.

Notice of Appeal to the Quarter Sessions.

A. B. take Notice, that I intend to appeal to the next General Quarter Sessions of the Peace to be holden for the (County, etc.) of _____ against an Order, (Conviction, or other Proceeding, as the Case may be, particularly specifying the Purport of such Order, etc. and assigning the Grievance and Cause of Complaint.)

Dated the

Day of

17

C. D.

REMARKS.

REMARKS.

CHAPTER I.

SECTION VIII. **I**T seems difficult to discover the Intention of the Legislature in this Affair of Assistant Surveyor. Supposing the principal Surveyor to be a Gentleman or reputable Tradesman, the allowing him an Assistant to perform the Drudgery of attending Statute-Duty, collecting Rates, Compositions, &c. might be very proper. But this Assistant is only to be appointed when the principal Surveyor has a Salary, and a Gentleman or reputable Tradesman will scarcely accept a Salary from the Parish. The subjecting a *substantial Inhabitant*, or, in other Words, a Superior, to be the Servant of his Inferior, is inverting the common Order of Things, and will be likely to produce private Animosity instead of public Benefit.

The annual Choice of Surveyors is in itself an Impropriety. There are perhaps few Offices wherein more Skill and Attention are required, than in the Office of Surveyor; yet, before the Officer is become half Master of his Business he is discharged, and a fresh *Ignoramus* chosen; consequently the Work is never done as it ought to be. Perhaps no Disadvantage could result from empowering the Justices to choose a Person of Judgment and Resolution who should voluntarily accept the Office, and continue therein, unless dismissed on Proof of Misbehaviour; by which means all the Parade and Trouble of Parish Meetings would be avoided. It may be alledged that the
Justices

Justices have now a Power of adopting this Expedient by re-choosing the same Person from Year to Year ; but if a Surveyor has properly performed his Duty One Year, it is to be feared his Name will not always appear on the List for the next ; and the Justices may naturally suppose that there was some reasonable Cause for its being omitted.

C H A P. II.

SECTION II. **T**HE discriminating Terms of Owner and Occupier, used in other Parts of the Act, are here discarded, and another very ambiguous one, *viz.* Possessor, introduced. Who must determine in this Case, whether by Possessor is intended Landlord or Tenant ?

The Power of cutting down Trees given by this Clause, is a Power that seems not to have been given by any former Act, and if properly exerted, would prove of inexpressible Utility. The Injury done to Highways by the Shade and dropping of Trees must be evident to any Person who will take the Trouble to observe the Difference between those Parts of a Road which are inclosed, and those which are open. The discretionary Exertion of this Power, however, should not have been imposed on the Justices, as it may subject them to many Difficulties. The Act should have absolutely prohibited the Growth and Plantation of all Trees, whether Timber Trees or not, and whether in Hedges or not, within a specified Distance from the Centre of the Road.

There is indeed in Sect. 5. of this Chapter, a Prohibition of planting Trees within 15 Feet of the Centre of the Road, but whether this was meant to extend only to planting in the Road where it is more than 30 Feet wide, or to planting in or beyond Hedges where it is not 30 Feet wide, the Words "*IN any Highway,*" seem to render doubtful.

SECTION III. Water lodging, or even running, on a Road, is one of the greatest possible Nuisances; by rendering the Surface soft, it prevents all Resistance to the Impression of Carriages, and consequently broad Wheels must produce a Slough, and narrow Wheels, Ruts to the Axletree. In Road-making or Road-mending therefore, Removal of the Water should be the first Object. It has been said, that our Ancestors had a different Idea of Water, and used to turn it into their Roads with Design to preserve them; and some Persons have the same Idea now: But that this was not the general Opinion formerly any more than at present, is obvious from the Statutes of 5th and 18th of *Eliz.* which gave Powers for the Removal of it as a Nuisance. More ample Powers have since been given for the same Purpose, but to what Effect the Appearance of the Roads, in many Places, sufficiently demonstrates.

SECTION IV. The absolute Power vested in the Surveyor by this Section, destroys the Obligation imposed on him by Sect. 2. of applying to the Justices for a delegated one; and indeed, except in the Case of felling or lopping Trees, renders that whole Clause unnecessary. The Power given by this Section of cleansing Ditches, Drains, &c. renders Sect. 3. also superfluous. Indeed, considering what kind of Persons are usually appointed to the Office of Surveyor, a Multiplication of Powers, Penalties, and Modes of Proceeding is injudicious; it only serves to perplex the Officer, who knows not what to do for the best, and therefore commonly does nothing *at all*.

SECTION V. This Clause says, "No Tree shall be permitted to stand in any Road within 15 Feet of the Centre thereof." Sect. 6. says, "Nothing in the Act shall be construed to oblige any Person to fell Timber Trees growing in Hedges, except where the Roads are ordered to be enlarged." What then is meant by the Expression *Tree* in this Section? Does it relate to Pollard Trees or to Timber-Trees standing not in Hedges, but in the Road

Road within the limited Distance from the Centre, or to newly planted Trees only? It cannot however relate to newly planted Trees exclusively, since they are particularly specified in the Clause, as one of the Nuisances to be removed. By Sect. 2. the Possessor of the Land forfeits 2*s.* for every Tree not cut down after Order for its Removal from the Special Sessions. By this Section he forfeits 10*s.* for every Tree not cut down after Notice for its Removal from the Surveyor. On a Comparison of the Two Clauses, it should seem that the Special Sessions have a Power to remove all Pollard Trees and other Trees under the Size of Timber; and that Persons who do not remove Pollard Trees standing in the Road, or newly planted Trees, whether standing in the Road or not, if within 15 Feet of the Centre, after Notice from the Surveyor, forfeit 10*s.* After all there appears a Confusion and Uncertainty in the Affair, which should, if possible, have been avoided.

SECTION VIII. and IX. Here are Two Different Penalties for the same Offence, and the latter Penalty will probably, in most Cases, prove much severer than the former, without any Aggravation of the Crime to deserve an Addition of Severity. As the Nuisances intended to be prevented or removed by these Clauses are very common * and very injurious to the Public, the not effecting a Removal of them should have been made a Breach of Duty in the Surveyor. The Two Clauses with some Alteration might have been easily comprized in One, as follows.

“ If any Person or Persons shall lay any Stone, Timber, Hay, Straw, Stubble, Dung, or other Matter for making Manure, or on any other Pretence, or any Soil or Dirt from the Scouring of Ditches, or for any Purpose, or on any Occasion whatever, in any Highway, within 15 Feet from the Centre thereof; the Surveyor is hereby requi-

* The Roads are the common Repositories of the Farmers Dunghills, many of them being too penurious to spare a Corner of their own Fields for that Purpose.

red to give Notice in Writing to such Person or Persons to remove the same; and if it be not removed within Five Days after such Notice is given, the said Person or Persons shall forfeit and pay 10 s. and the Surveyor is required to give him or them a Second Notice in Writing, to remove the same; and if it be not removed within Five Days after such Second Notice, the Surveyor is hereby required and authorized to dispose of it by Way of Sale, and apply the Money arising therefrom, towards the Repair of the Highways of the Parish; or in case a Purchaser cannot easily be found, may give the said Stone, Timber, Dung, &c. to the Occupier of the adjacent Lands, or any other Person who will remove the same."

C H A P. III.

SECTION II. **P**ICK'D Stones, as they are commonly called, are Materials on which the Repair of many Roads entirely depends, and this Clause is little better than a Prohibition of picking them: An Opinion has lately been started, that removing the Stones is detrimental to the Land: Here is no Place to enter into an Investigation of the Merits of this New Piece of Natural Philosophy; the Landholders however will make it a Pretence for not parting with the Stones, without being paid their Price, and few Justices will choose to disoblige their Tenants and Neighbours by interfering in the Affair.

SECTION III. From the Words of this Section as they stand in the Act compared with the Words of a succeeding Clause †, some Readers might be
apt

† This Clause begins as follows: "Whereas in some Parishes, &c. there may not be sufficient Materials for the Repair of the Highways, within the same, nor within the Waste Lands, &c. of any other Parish, lying within a convenient Distance from such
High-

apt to doubt whether pecuniary Satisfaction was designed to be made for Materials procured in inclosed Lands, within the Surveyor's own Parish, or only for those procured in the inclosed Lands of other Parishes. From the Equity of the Thing, as well as from the general Spirit of the Act, it is however sufficiently evident, that such Satisfaction was meant to be made alike in both Cases.

The former Act gave the Surveyor no Power to procure Materials in any other Parish than his own, but was quite explicit as to paying for those procured there.

SECTION V. Here again, to judge from the mere Words of the Act, some might think it difficult to determine whether this Proviso (for which, perhaps there was no great Occasion) relates solely to procuring of Clay, or of Materials in general; there does not however, on considering the whole Tenor of the Clause, appear any Room to hesitate in extending it to Materials in general.

It is really much to be regretted, that the Contents of our Public Statutes (which are supposed to be the Result of National Wisdom and National Deliberation), are not better digested and expressed with more Precision than they commonly are.

SECTION X. This Clause, notwithstanding the Words "shall and is hereby required," could not surely be intended as a positive Injunction, obliging the Surveyor to contract, but only as an Authority for contracting when it might appear ex-

Highway, whereby the Surveyor of such Highway may be forced to buy such Materials, and make Recompence and Satisfaction to the Owners or Occupiers of inclosed Lands, &c. — Does not the Word *in* seem to regard both common and inclosed Lands, and obliquely intimate that no Satisfaction should be made respecting either, when within the Surveyor's Parish? Had the Words been *in the Waste Lands of some Parishes*, they would not have been obnoxious to any Misconstruction.

pedient

pedient? What can be meant by this very imperfect and indeterminate Description, &c. "In every Parish where a sufficient Quantity of Stone, Gravel, Chalk, or other Materials, cannot be provided and carried by the Labourers and Teams, required by this Act to perform Statute-Duty within such Parish, &c." Is it to be understood of the Labour and Team-Duty Compositions and Contributions in the Whole, and that only Money raised by a Rate, or expended on the Presumption of being repaid by such Rate, is to be applied in no other Method than contracting as aforesaid? Or is it to be understood in a yet more limited Sense, of the Labour and Team-Duty in Kind, and that the Compositions and Contributions are to be applied in no other Method than in so contracting? Be this as it may, it must in many Cases be very Inconvenient and Disadvantageous for the Surveyor to contract for any considerable Quantity of Work or Materials before-hand; and it would be absurd indeed, to call the Parish together, every Time he has Occasion to hire Two or Three Teams, or employ Five or Six Men in digging Gravel: Supposing the Surveyor to be an honest and judicious Person, all these Precautions and Restrictions are unnecessary; and if he is not, he ought not to continue a Week in the Office.

C H A P. IV.

SECTION I. **P**ERHAPS, if the Surveyor's Year were to begin in *January*, as it did by the old Act of *William III.* it would be in some Respects a better Commencement than the present. The Whole of the Statute-Duty of One Year is sometimes not performed till after Harvest, and consequently if the Harvest be late, till after *Michaelmas*; and thus what is begun by one Surveyor

veyor is finished by another, and the Duty of Two Years mixed together.

SECTION III. It must not here be understood, that doing the Team-Duty for One 50*l.* occupied in One Parish, will excuse a Person from doing Duty for another 50*l.* which he occupies in another Parish. On the contrary, if a Person occupies Ten different Fifties in Ten different Parishes, he must find a Team for every Parish; and Two Teams for every Hundred, in like Manner, for as many Hundreds occupied in as many Parishes: This Tax of Duty being a Tax not on Persons but on Occupation, which consequently must be taxed wherever it be found.

SECTION IV. These Contributions are substituted in the Place of the Labour-Duty, appointed by the former Act. By that Act the Occupier of 90*l. per Ann.* found a Team for the 50*l.* and Four Labourers, One for each 10*l.* of the 40*l.* or compounded, by paying for the Team 1*l.* 7*s.* and 4*s.* for each Labourer. He now finds a Team, or pays 1*l.* 7*s.* as before for the 50*l.* and pays 6*d.* in the Pound for the 40*l.* This is an Improvement, as it taxes Occupation more regularly than the former Method.

SECTION V. This Description appears to be intended for a Person who keeps two Teams, one in the Parish where he resides, and another in some other Parish; but does not occupy 50*l. per Annum* in the latter. Such Persons seem to be liable to the Team-duty for the Parish where they reside, and only to Payment of the Contribution-money for their Occupation in the other—This Indulgence is perhaps, in some Cases, unnecessary. A Person may keep Two good Teams in Two different Parishes, and not rent 10*l. per Annum* in either. A common Stage Carrier, for Instance, may have a House and Stables in one Parish, and Stables only in another. To have charged such a one with Team-duty in both Places, might have been deemed laying a Tax on Trade, which must eventually
raise

raise the Price of Commodities ; but on the other Hand it is to be considered, that this Trade, especially when carried on with narrow Wheels, damages the Roads more than any other. It is however plain, that the Legislature did not mean the Taxation of such Persons with double Team-duty, since, when they keep Two or more Teams in their own Parish, they are taxable for the Duty * of One Team only, if they do not rent above 50*l*.

SECTION VI. In the former Act, the Clause containing this Distinction was so incautiously worded, as to occasion some Difficulty in ascertaining its Meaning.

“ And every Person or Persons not keeping a Team, Draught or Plough, but occupying Lands, Tenements, or Hereditaments, under the yearly Value of Ten Pounds, in every Parish, Township, or Place ; and also every Man inhabiting therein respectively, and being of the Age of Eighteen, and under the Age of Sixty-five Years, not being an Apprentice or menial Servant, nor having performed the said Duty, or paid the Composition for the same, in any other Parish, Township, or Place, for that Year, shall by themselves, or One sufficient Labourer, &c.”

From a supposed Ambiguity in these Expressions, it was contended by several Magistrates, &c. that this Exemption for having already performed the Duty, or paid the Composition, extended not only to Labourers being simply Inhabitants, but to Occupiers residing in One Parish, and at the same Time occupying Lands or Tenements under 10*l*. *per Annum* Value in another : And consequently, that when such had done Duty, or paid Composition for the Premises occupied in the former, they were not chargeable for those occupied in the latter. Some Justices have accordingly refused to grant a

* They are excused from double Team-duty if they do not rent 100*l*. But not from Contribution Money if they rent above 50*l*.

Summons to a Non-resident Occupier for Default of Performance, apprehending themselves not authorized by the Act to do it, although they thought that in Equity the Defaulter ought to be liable. It was however sufficiently clear to others, that the Exemption was nothing more than a Proviso in Favour of poor Labourers, who sometimes change their Habitations Three or Four Times in a Year, and whom it would be equally cruel and unjust to compel to the Performance of Duty, or Payment of Composition for every Place they come to. The present Act, by a greater Accuracy of Arrangement, has determined the Point, and shewn that the latter Opinion was right — In order to prevent Oppression on one Hand, and Imposition on the other, it seems necessary that every Labourer who has performed Duty, or paid Composition for One Parish, and removes into another within the Year, should bring with him a Certificate of his having performed such Duty, or a Receipt for such Composition from the Surveyor of the former.

SECTION VIII. This Excuse of menial Servants does not seem to be founded on any Principle of Equity. Were the Duty personal Labour without Alternative, the Inconvenience of taking them from their Master's Service, would be a reasonable Plea for their Exemption: But a menial Servant may certainly afford to pay 2*s.* better than a poor Labourer with Five or Six Children, perhaps already half-starving. — The obliging Labourers, who have large Families, to contribute to the Repair of Roads that they do not injure, is an Instance of Oppression, which it is great Pity the present Act has continued in Existence.

SECTION X. The Liberty of adopting either of the Two Alternatives mentioned in this Clause, seems to be founded on the Supposition that a Person may keep a Coach and Four Horses, and occupy only 20*l. per Annum*, in which Case he will be chargeable on the First Plan to the Amount
of

of 1*l.* 4*s.* and on the Second only to 10*s.*—
On the contrary, a Person may occupy 48*l.* *per*
Annum, and keep only a Pair of Horses, in which
Case he will be chargeable on the First Plan only
12*s.* and on the Second 1*l.* 4*s.*

Quere. Are Persons keeping Coaches, Post-
chaises, &c. to let, comprehended under the
Description of this Clause?

SECTION XII. Had all Persons occupying less
than 50*l.* *per Annum* (Stage-carriers, and Persons
keeping Coaches excepted) been exempted from
Team-duty, and only charged with the Contribu-
tion of 6*d.* in the Pound, it would have shortened
the Act by the Omission of this Proviso, and at the
same Time been a Relief to the poor Occupiers,
and perhaps no great Disadvantage to the Roads,
the Teams of little Farmers being seldom of much
Service.

SECTION XIII. By Sect. 9. Persons keeping
Carts with Two Horses, and Carts with One
Horse, are obliged to do Duty with the same, or
to pay the Contribution-money, *at the Option of*
the Surveyor: By this Section they are allowed to
compound for 3*s.* and 2*s.* *per Day*, which in one
Case is 18*s.* and in the other 12*s.* in the Whole.
Now it may happen that a Person, in either of these
Circumstances, may occupy 49*l.* *per Annum*, and
his Contribution consequently amount to 24*s.* 6*d.*
It should seem therefore that the Surveyor, by
Sect. 9. has the absolute Choice of Two Alterna-
tives, the Contribution or the Work, in order to
avail himself of either, at his own Discretion, and
that the Composition permitted by this Section,
was permitted in favour of poor Occupiers*, in

* Some of these inferior Landholders have almost con-
stant Employment for their little Carts and Horses, in
one Job or other; it would therefore have been an Hard-
ship to have compelled them to the Performance of Duty
without Alternative.

case the Surveyor should require the Work at an inconvenient Time. After all, as has been just observed, the Duty of such Occupiers is of little Use, and it would have saved Trouble, and been amply sufficient to have charged them with the Contribution only.

SECTION XIV. By the last Act, the Time of compounding was fixed only in Cases where the Parish consisted of 200 liable Persons; and that Time was to be in *January*. By this Act the Time was fixed for all Parishes, and that considerably earlier. This, perhaps, is an Improvement; the Surveyor will have the Advantage of knowing who will compound, and who will not; and by the coming in of the Compositions and Contributions, will have some Cash in Hand to go to work with immediately. The Compositions must be paid within One Month after the Time appointed in the Notice, but (for what Reason is difficult to conceive) there seems by Sect. 7. to be a farther Latitude of Ten Days allowed for Payment of the Contributions.

SECTION XIX. Here seems to be a Power vested in the Surveyor, to accept of a Composition in particular Cases after the Time appointed for compounding in general, notwithstanding Sect. 15. which says, That after that Time no Composition shall be permitted.—Perhaps the Prohibition in that Section was designed to be understood in a qualified Sense, and that although the Parties not compounding at the Time thereby appointed, cannot afterwards oblige the Surveyor to accept of a Composition; yet that he may accept it if he pleases.

SECTION XXIII. This Clause might perhaps have been spared: The Justices have a better Alternative in their Power. Let them raise the Composition to 6s. a Team, and the Farmers in general will perform the Duty in Kind. But even supposing they should chuse to compound, the Price of a Team of Four Horses, even near the Metropolis, is but 10s. *per Day*: And some Persons

sons who have been more than a little conversant in these Matters are of Opinion, that One hired Team is almost, if not quite equal to Two Duty Teams, with regard to the Quantity of Work respectively done in a Day. Working for a dead Horse, is a Proverb with which the Vulgar are as well acquainted as with that Kind of Conduct which gave it Existence. But admitting this Clause to be necessary at all, the latter Part of it was certainly unnecessary. By the former Part, the Justices have a Power to order the whole Duty, or as much of it as they think proper, to be performed in Kind; surely then they can order a Half, or Third, or Sixth, or (if such minute Subdivision be requisite) even a Twelfth Part to be so performed, by allotting Three Days, or Two Days, or One Day, or Half a Day, to every Person liable. Where then is the Necessity for this other curious Expedient of the *Hat or Box*, this *solemn Game of Huslecap in the Vestry*?—But possibly it was introduced in Compliance with the reigning Taste for Lotteries. Mr. Cox's fine Pieces of Mechanism were disposed of by Way of Lottery; Messrs. Adam's fine Houses were disposed of by Way of Lottery; and now the Performance of the Statute Duty of the Parish must be determined by Way of Lottery also.

SECTION XXIV. This Clause seems better calculated for the Meridian of the Continent, than that of *England*. Our honest Tenants of the Soil are not (as some of the Natives of the Highlands are said to be) endued with the Knowledge of Futurity, and they are convinced by Experience that no great Dependance is to be placed on the Prognostications of their Almanacks and Barometers; they may therefore by an unlucky Intervention of unfavourable Weather during the Months they have exempted themselves from the Power of the Surveyor, be obliged to let their Teams lie idle: And when that Power is revived by the Expiration of these Months, may find their own Business and the

Business of the Parish to do at the same Time, They have, however, one Consolation (when they are not restricted by an Exertion of the Powers of the last Section); they may prevent all Perplexity about settling the Commencement of these said Months of Exemption, and all subsequent fortuitous Inconveniences resulting from it, merely by paying the Composition; which the Surveyor, if he knows any Thing of his Business, will, for very good Reasons, think a Circumstance as much in his own Favour as in that of his Parish

SECTION XXV. The former Act positively directed the Performance of the whole Six Days Duty. This Act says, [Vide Chap. 4. Sect. 1.] so many Days as shall be found necessary. Who is to determine concerning this Necessity? If the Surveyor supposes the whole Duty to be necessary, his Parishioners will probably suppose it to be unnecessary, and contradict and brow-beat him till he thinks proper to acquiesce in their Opinion. Considering the general Aversion to improving Roads, the Exertion of the whole Duty should have been made indispensable; the making it conditional, is putting the Resolution of the Surveyor to too severe a Trial. There are not, perhaps, Ten Country Parishes in *England* where the whole Duty would not be necessary to keep the Roads in as good Condition as they ought to be for the Convenience of Travellers.

C H A P. V.

I N this Clause of the General Assessment, and also in the Clause directing the Surveyor's General View, Chap. 2. Sect. 4. (as they stand in the Act) mention is made of Causeways and Pavements. Quere, Are the Foot-paths in Towns and Villages (whether paved or not) designed under this Description? and on whom is the Care of such
to

to devolve? on the Proprietors of the adjoining House, or the Public? and if on the Public, in Cases where the Road is Turnpike, whether on the Trustees of the Turnpike or on the Parish Surveyor? I should apprehend, where the Road is not Turnpike, on the Parish Surveyor; and where it is Turnpike, on the Trustees. They are maintained in some Places by the Proprietors of the adjacent Houses, but whether such Maintenance is Matter of Right or Courtesy, perhaps has not been ascertained. This is certain, that wherever the Obligation of repairing rests, they are often almost totally neglected. It were to be wished, that the Legislature in some future Amendment of the Act would oblige us with explicit Information on the Subject.

C H A P. VI.

SECTION I. **B**Y the general Tenour of the former Act, it appeared to be the Intent of the Legislature to have good Roads. The Surveyor was accordingly invested with ample Powers, and left as much as possible independent of his Parishioners. The Case is now altered, the Purchase of the necessary Tools for his Work is to be made with the Consent and Approbation of the Vestry; he is to produce his Accounts first to the Vestry, and then to such Justice as the Vestry shall agree on, and then if that Justice thinks proper, to the Special Sessions. Thus is the Office clogged with every Thing that can render it disagreeable. — As to what has been already hinted concerning the uncivil Behaviour of Parishioners to their Surveyors, although it may not be generally, yet from what the Author of these Remarks has seen and heard, he has sufficient Reason to believe it is but too frequently, experienced by Officers who endeavour to execute their Business with Spirit and Impartiality.

C H A P.

C H A P. VIII.

SECT. IV. and V. **I**T appears difficult to assign a Reason why narrow-wheeled Waggon, the most destructive Carriages that can pass upon a Road, are allowed to be drawn with Five Horses, and Carts with Six-inch Wheels with Four only. But whoever has noticed our general Highway and Turnpike Acts for several Years past, must have remarked the Antipathy which the Constructors of those Laws seem to have had to Carts, though Carts can neither carry so great Loads as Waggon, nor keep so constantly in one Track; which are both very important Circumstances in their Favour: Consequently there was much less Occasion for restricting them in the Number of Horses. It must make any Person smile who recollects the Proceedings of Government, in many Cases, to observe the Caution used in this Affair of the Limitation of the Breadth of the Wheels of Carriages. An absolute Prohibition of all Wheels under the Breadth of Six Inches on all Carts and Waggon drawn with more than Two Horses*, to have taken Place in One Year from the Commencement of the Act, would probably have contributed more to the Preservation of the Roads than any Expedient yet adopted, and have been liable to little Exception. The Farmers, indeed, must have levelled or filled the Ruts of their narrow Lanes, and have been at rather more Expence for Timber and Iron. But as to the Objection which has been frequently started, that the general Use of such Wheels would occasion too great a Con-

* All Six-inch Wheels on Waggon should be fixed to roll a Surface of Eleven Inches; this Construction is no way injurious to the Farmer, and is highly advantageous to the Roads.

sumption of Timber, its Validity cannot be admitted till it has been shewn that the Timber employed in Wheel Work is fit for any other Purpose; and that there would not be a sufficient Quantity to answer the Difference in the Demand which the proposed Difference in the Size of the Wheels must occasion.

SECTION VIII. If the Offender lives so distant as to render it inconvenient for the Justice to summon him, the Justice may dismiss the Complaint, and leave the Informer to his Remedy at Law. This is pulling down with one Hand what has been built with the other. The more difficult a Prosecution is rendered, the fewer Offenders will be prosecuted; and in this Case the Transgressor has nothing to do but to take Care that his Transgression is committed far enough from Home.— He may ride a spare Horse Ten Miles, and draw with it Twenty or Thirty without Molestation.

SECTION XIV. This was a very necessary Expedient to restrain the Insolence of Hackney Coachmen, Post-chaise Drivers, &c. But for want of more explicit Directions respecting the Size of the Letters and Form of the Inscription, the Design of the Legislature is in great Measure evaded. Instead of the large legible Characters mentioned in this Act, small ones are placed in Scrolls or Circles, or intermixed with Cyphers or Coats of Arms, in such a Manner as to be unintelligible except on a very close Inspection*. Were Gentlemen voluntarily to adopt this Method of placing their Names at Length on their Carriages, it would probably prevent many Improprieties committed by their Servants in their Absence: There is nothing disgrace-

* This, however, is not always the Case; and it is much to the Honour of those who have made their Names as conspicuous as possible, that they have done so; it is an Indication that they wish not to countenance Misbehaviour in their Servants.

ful in the Thing itself, and it might be performed in such a Manner as no Way to detract from the Grandeur or Elegance of those Vehicles.

C H A P. VIII.

SECTION XII. **C**ARRIAGES carrying one Piece of Timber, Block of Marble, Cable Rope, &c. are *not* exempted from Restriction as to Number of Horses on *Turnpike Roads*, except they have Nine-inch Wheels. [Vide the present General Turnpike Act.] There does not seem to be much Occasion for the Exemptions of this Section, even in the Case of Ammunition or Artillery, except in Time of War, when particular Exigences may require a dispensing with general Rules. Broad Wheels are properest to support such heavy Burdens, as well as least detrimental to the Roads, which it appears highly unreasonable that every Driver of a Baggage-waggon, or Carriage laden with Timber for Ship-building, should be permitted to plough up with narrow ones, under Pretence that he is employed in the Service of Government.

C H A P. IX.

SECTION III. **W**HEN the Practice of Drivers riding on their Waggon was first made criminal, that Practice, which had been the Occasion of innumerable Accidents, became much less frequent; but from a too general Neglect of putting the Law in Execution, it is again become almost universal. A new Law in general is like a Scarecrow, from which the Birds at first keep a very respectful Distance, but which after they have once approached it with Impunity, they no longer regard.

gard. In the Case in Question, the present Act has wisely continued the Power of Punishment in Existence, and it is to be hoped that Power will be frequently exerted. Perhaps there is no Law which can be carried into Execution with equal Facility. Any Person who sees the Fact committed is, in effect, invested with the Authority of a Constable, and may apprehend the Offender without a Warrant; and for his Security while so doing, the Act imposes a Fine to the Amount of Ten Pounds, and in Default of Payment of such Fine, Imprisonment, on the Party making Opposition or Resistance *.

C H A P. X.

SECTION II. **B**Y this Clause, all Penalties and Forfeitures, the Disposition whereof is not otherwise directed by the Act, are to be paid Half to the Informer, and Half to the Surveyor of the Parish where the Offence is committed. But there are Cases described in the Act, where an Informer seems to have no Business, and yet no particular Application of the Forfeiture is directed: For Instance, in Chap. 1. Sect. 7. in the Case of Assistant Surveyor, if two Inhabitants successively nominated to the Office, refuse to accept it, the Forfeitures imposed on both are given to a Third as Part of his Salary; but if the first appointed Person only refuse to serve, his Forfeiture is not given to the second appointed.—Who, in this Case, is to be deemed the Informer? or, if there be none, What is to be done with the Forfeiture? *Again*, in Chap. 1. Sect. 17. Constables, Churchwardens, and Surveyors, not making and returning annual Lists for Choice of Surveyors,

* Vide Sect. 6. of this Chapter.

forfeit 40s.—If it should happen in any Parish that no such List is made, on Enquiry at the Special Sessions the Fact discovers itself, no Informer is necessary, the Justices proceed to recover the Forfeiture, but to whom is it to be paid when recovered?

C H A P. XII.

SECTION V. **T**HIS Circumstance is rather diverting.—A Power has been given to indict bad Roads, and now a Power is given to apply the Money with which they should be mended to oppose the Indictment, and keep the Roads in their pristine State of Impassability.—This Clause will be more likely to be brought into Practice than many others in the Act. The *English* are fonder of Law-suits than of Road-mending. In case of an Indictment being deemed vexatious, the Act allows a Liberty of awarding Costs to the Defendant *; if an Indictment, therefore, be previously known to be vexatious, there can surely be no Difficulty in raising Money to oppose it, as every Individual of Ability in the Parish will scarcely hesitate to contribute his Share; and if it be known to be not vexatious, but laid on just and reasonable Grounds, it ought not to be opposed at all. This Clause, therefore, had better have been omitted, and the Money directed by the Act to be raised for repairing the Roads have been kept inviolably sacred to that very necessary Purpose.

* Vide Chap. 12. Sect. 4.

C H A P. XIII.

SECTION IV. VIII. IX. and X.

AS the Powers given by these Sections probably will be rarely exerted, and as the Act itself may be readily recurred to, it was thought unnecessary to be more particular in specifying the Directions contained therein.—By Section 4. Bodies Politic or Corporate, and Trustees, Guardians of Minors, &c. are impowered to treat for the Sale of Lands to widen or divert Roads, &c.

C H A P. XIV.

SECTION IV. THE oblique Description used in this Clause, occasioned by an over-scrupulous Adherence to old Forms of Expression, must be perplexing to many Readers of the Act. The Legislature might have expressed their Meaning with more Perspicuity, and perhaps with as much Brevity, by mentioning the Two local Acts revived by the Act of 8 George III. viz. the Acts of 14 and 15 of Hen. VIII. *For altering the Highways in the Weald of Kent*, and that of 26 of Hen. VIII. *For the Highways of Sussex* (provided those Acts contain any Powers worth continuing in Existence), and then declaring all other Acts whatsoever relative to the Highways to be repealed by the present.

THUS much for the present Act, on a candid Comparison of which, with the immediately preceding one, it may perhaps be apprehended, that
there

there was no absolute Necessity for an Alteration ; or at least, that if the former can boast some few Articles that may be justly termed Improvements, it has many others which have no Title to that Appellation.

It may be deemed proposing too bold an Innovation, to propose the Rejection of a Plan which has received the Sanction of Custom for more than two * Centuries ; but the most effectual Method to procure a thorough Amendment of the Roads certainly would be to abolish the Statute-Duty, and substitute a regular Assessment on Occupation, of so much in the Pound as might be thought sufficient for the Purpose ; the Money raised thereby to be employed and accounted for by the Surveyor, who, as before hinted, should be rendered independent of every Person but the Justices. The Antiquity of an Expedient, which, on Trial, is found not to answer the End it was designed for, cannot be a good Reason for persisting in the Practice of it. There is little doubt but the Effect of this Alteration would soon be visible in the Roads, for as the Money must be raised, there would be no Temptation to omit expending it. An Infinitude of Trouble would be saved to the Surveyor, and the only Argument in Favour of the present Method, viz. that it is an Advantage to the Landholders, who at particular Seasons have little Work for their Teams, will lose much of its Validity, when it is considered that Teams must be hired for repairing the Roads, and probably those very Teams will be hired for that Purpose.

* The Team-Duty was established by the 2d and 3d of *Philip and Mary*.

A
D I G E S T
OF THE
PRESENT GENERAL LAWS
RESPECTING
TURNPIKE ROADS;
&c.

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C H A P T E R I.

Qualification of Trustees. Directions respecting Treasurers, Clerks, and Meetings, &c.

SECTION I. **N**O Person shall be qualified for acting as a Qualification of Trustees.

Trustee in the Execution of any Turnpike Act which does not direct a Qualification for Trustees, unless he shall be, in his own Right, or in the Right of his Wife, in the actual Possession or Receipt of the Rents and Profits of Lands, Tenements, or Hereditaments, of the clear yearly Value of Forty Pounds : or shall be possessed of or intitled to a personal Estate to the Value of Eight Hundred Pounds ; or shall be Heir-apparent of a Person possessed of an Estate in Lands of the clear yearly Value of Eighty Pounds ; and unless he hath taken, or shall take and

subscribe (not being such Heir-apparent as aforesaid). before he acts as a Trustee, the Oath following, before any Two or more Trustees appointed by or in pursuance of such Act, who are hereby authorised and impowered to administer the same, in the Words or to the Effect following :

Qualification
Oath.

“ I *A. B.* do swear, that I truly and
“ *bona fide* am, in my own Right, or
“ in the Right of my Wife, in the
“ actual Possession and Enjoyment or
“ Receipt of the Rents and Profits of
“ Lands, Tenements, or Hereditaments,
“ of the clear yearly Value of Forty
“ Pounds; or possessed of, or intitled to,
“ a personal Estate of the Value of Eight
“ Hundred Pounds (*as the Case may be*).
“ So help me God *.”

13 Geo. III. c. 84. § 44.

Penalty for act-
ing unqualified.

II. Every Person acting contrary to the true Intent and Meaning of the above, shall for every Offence forfeit and pay the Sum of Fifty Pounds to any Person who shall sue for the same; to be recovered in any of his Majesty's Courts of Record by Action of Debt, or on the Case, or by Bill, Suit, or Information; wherein no Effoin, Protection, or Wager of Law, or more than one Imparlance, shall be allowed: And such Per-

Mode of Prose-
cution for the
Penalty.

* Vide Remark.

son

son so sued or prosecuted shall prove that he is qualified as above, or otherwise shall pay the said Sum of Fifty Pounds, without any other Proof or Evidence on Part of the Prosecutor, than that the Party prosecuted hath acted as a Trustee. 13 Geo. III. c. 84. § 44.

III. No Person shall be capable of acting as a Trustee who shall keep any Alehouse, Victualing-house, or other House of public Entertainment, or who shall sell Wine, Cyder, Beer, Ale, spirituous or other strong Liquors, by Retail. 13 Geo. III. c. 84. § 46.

Alehouse-keepers cannot be Trustees.

IV. All Treasurers and Surveyors of Turnpike Roads, who have not already given Security to the Trustees of their respective Roads, duly to pay and account for the Money which hath come, or shall come to their Hands, as Treasurers or Surveyors, must, on or before the 25th Day of *December* next [1773], and every succeeding Treasurer or Surveyor must, within one Month after his Appointment, give a Bond to the Trustees, with a sufficient Surety, in such Penalty as the said Trustees, at a public Meeting, shall direct, conditioned for the duly paying and accounting for all Money which shall be then in his Hands, or which he shall afterwards receive as Treasurer or Surveyor, according to the

Treasurers and Surveyors to give Bond.

Directions of the particular Act of Parliament relating to the Road whereof he is Treasurer or Surveyor; which Bond shall be wrote upon Paper without any Stamp thereupon. 13 Geo. III. c. 84. § 65.

Treasurers,
Clerks, Survey-
ors, &c. to deli-
ver up their Ac-
counts.

Vide Chap. X.
§ 12.

V. All Treasurers, Clerks, Surveyors, and other Officers, appointed, or to be appointed, by any Turnpike Act, and their respective Executors and Administrators, must, within Ten Days after Notice in Writing to them respectively given by the Trustees, or any Five or more of them, at a Meeting held pursuant to such Act, produce and deliver up to such Trustees, all Books, Accounts, Papers, or Writings whatsoever, relative to the Execution of their respective Offices, which shall be in their Custody or Power. And every such Officer refusing or neglecting to produce and deliver up such Books, &c. after Notice as aforesaid, shall, for every such Refusal or Neglect respectively, forfeit the Sum of Twenty Pounds. 13 Geo. III. c. 84. § 45.

Meetings how
to be held.

VI. Where a sufficient Number of the Trustees appointed by any particular Turnpike Act, shall not meet on the Day appointed by such Act for their First Meeting; or shall not meet on the Day appointed by Adjournment for their Meeting; or shall be unable to meet for
want

want of a proper Adjournment; in any of these Cases, such Trustees as shall meet, or the major Part of them, or in case no Trustee shall be present, their Clerk or Clerks may cause Notice in Writing to be affixed on the Turnpike Gates, or if no Turnpike Gate be erected, then on the most conspicuous Place in one of the principal Towns or Places nearest to the Roads directed to be repaired by such Act; and also cause such Notice to be printed in some public Newspaper circulated in that Part of the Country, at least Ten Days before the intended Meeting, appointing the Trustees to meet at the Place where the preceding Meeting was appointed to be held; or if no preceding Meeting has been held, then at the Place directed for the First Meeting of the Trustees. And the Trustees meeting in pursuance of such Notice, may and are required to proceed to carry the Act into Execution, in the same Manner as if no Neglect had happened.

13 Geo. III. c. 84. § 49.

VII. No Meeting shall at any Time be adjourned for a longer Time than Three Calendar Months, from the Day on which the Adjournment shall be made. No Business shall be done or proceeded on before Ten in the Forenoon, nor shall any Adjournment be made to any Hour

Times of Adjournment and doing Business.

All Acts of
Trustees at
Meetings must
be signed.

later than Two in the Afternoon of the Day on which such Meeting shall be appointed to be held. Every Act agreed upon at any Meeting must be signed by a competent number of Trustees. Every Meeting, Adjournment, and Act respectively, where the above Particulars are not adhered to, will be void, and of no Effect*. 13 Geo. III. c. 84. § 50.

C H A P. II.

Concerning Weighing Engines.

Trustees may
erect Weighing
Engines and or-
der Carriages to
be weighed.

SECTION I. **T**HE Trustees of any Act or Acts for repairing any Turnpike Road, or any Five of them, at any public Meeting, may order Weighing Engines to be erected at as many Toll Gates, or upon as many other Parts of the Roads, within their respective Jurisdictions, at any Distance from their Toll Gates, as they may think proper; and may, by Writing signed by any Five of them, order all loaded Carriages, with their Loading, which pass through any such Gates, to be weighed; and the said Trustees, or any Five of them, or any Person or Persons impowered by any Five of them, may receive and take over

* Vide Remark.

and

and above the Tolls already granted, and hereafter to be granted *, the following Sums of Money, as additional Tolls for every Hundred Weight of One Hundred and Twelve Pounds to the Hundred, which any Waggon, Cart, or Carriage, together with the Loading thereof, shall weigh at any Weighing Engine erected or to be erected, over and above the Weight [hereafter] allowed to them respectively.

For the First and Second Hundred of Overweight 3 *d. per* Hundred. Additional Tolls for Overweight.

For every Hundred above Two Hundred and not exceeding Five Hundred, 6 *d.*

For every Hundred above Five Hundred, and not exceeding Ten Hundred, 2 *s.* 6 *d.*

For every Hundred above Ten Hundred, and not exceeding Fifteen Hundred, 5 *s.*

For every Hundred above Fifteen Hundred, 20 *s.*

But the Trustees of the Turnpike Roads within Ten Miles of *London, Westminster,* and *Southwark*, may, at their General or Quarterly Meetings, lower the above additional Tolls, in such Manner as to them may seem fit and convenient. Trustees within Ten Miles of London may lower them.

* Vide Remark.

Limitation of
Weights.

The following Weights are allowed to be carried on different Carriages :

Every Waggon or Four-wheeled Carriage having the Fellies or Rollers of the Wheels Sixteen Inches broad, may carry Eight Tons in Summer, and Seven Tons in Winter.

Every Waggon, &c. with Nine-inch Wheels, placed so that the Distance between the nearer Pair is not more than Four Feet Two Inches (measured at the Ground), and rolling a Surface of Sixteen Inches, may carry Six Tons Ten Hundred in Summer, and Six Tons in Winter.

Every Waggon, &c. with Nine-inch Wheels may carry Six Tons in Summer, and Five Tons Ten Hundred in Winter.

Every Cart with Nine-inch Wheels, may carry Three Tons in Summer, and Two Tons Fifteen Hundred in Winter.

Every Waggon, &c. with Six-inch Wheels, rolling a Surface of Eleven Inches, may carry Five Tons Ten Hundred in Summer, and Five Tons in Winter.

Every Waggon, &c. with Six-inch Wheels, may carry Four Tons Five Hundred in Summer, and Three Tons Fifteen Hundred in Winter.

Every Cart, with Six-inch Wheels, Two Tons Twelve Hundred in Summer, and Two Tons Seven Hundred in Winter.

Every Waggon, with Wheels under the Breadth of Six Inches, Three Tons Ten Hundred in Summer, and Three Tons in Winter.

Every Cart, with Wheels under the Breadth of Six Inches, One Ton Ten Hundred in Summer, and One Ton Seven Hundred in Winter.

For the several Purposes aforesaid, it is to be deemed Summer from the 1st Day of *May* to the 31st of *October*, both inclusive; and Winter from the 1st Day of *November* to the 30th of *April*, both inclusive.

Distinction of
Summer and
Winter.

The additional Toll above granted may be levied and recovered upon any Person liable thereunto in any of the Cases aforesaid, who, after demand made thereof, shall refuse or neglect to pay the same, in such Manner as any other Toll payable at the same Turnpike Gate is to be levied and recovered.

The Money arising from such additional Toll is to be applied to the Repair of the Road where the same is collected.

13 Geo. III. c. 84. § 1. and 14 Geo. III. c. 82. § 2.

II. No Waggon, Cart or Carriage, employed only in Husbandry, or carrying only Manure or Lime for the Improvement of Land, or Hay, Straw, Fodder, or Corn unthreshed (excepting Hay or Straw carried for Sale), shall be weighed

Carriages exempted from being weighed.

at

at any Weighing Engine now erected or hereafter to be erected; any Law or Usage to the contrary notwithstanding. 14 Geo. III. c. 82. § 3 *.

III. The Gate-keepers of all Toll Gates where Weighing Engines are erected, or any other Persons appointed by the Trustees, or any Five of them, to have the Care of such Engines, are required to weigh all Waggon and Carts liable to be weighed as above-mentioned, which shall pass loaded through such Gates, and which they shall have Reason to believe carry greater Weights than are allowed by the Act; and any Gate-keeper, or other Person, so appointed, who shall permit such Waggon or Cart to pass through such Gate with greater Weights than are allowed as aforesaid, without weighing the same, and recovering the additional Toll, shall forfeit for such Offence the Sum of Five Pounds *. 13 Geo. III. c. 84. § 2.

Gate keepers required to weigh Waggon, &c.

and neglecting forfeit 5l.

Trustees, &c. may cause Carriages to return to the Engine and be weighed.

IV. Any Trustee, Creditor, Treasurer, Clerk, or Surveyor of the Road, who shall suspect Connivance, or Neglect of Duty, in such Gate-keeper or other Person, when any Carriage liable to be weighed, shall have passed through any Toll Gate where a Weighing Engine is erected, and shall not have passed more

* Vide Remark.

than

than Three Hundred Yards beyond such Gate, may cause such Carriage to return to the Engine, and there be weighed in his Presence, with the same Loading that passed through the Gate; paying or tendering to the Driver One Shilling, which Shilling shall be returned to the Party paying the same, if the said Carriage, upon weighing, be found not to exceed the Weight allowed as aforesaid.

Any Driver requested to return as aforesaid, who shall refuse or neglect so to do, shall forfeit the Sum of Forty Shillings; and any Peace Officer, or other Person or Persons then present, may, upon such Neglect or Refusal, drive such Carriage back in order to be weighed. 13 Geo. III. c. 84. § 3 and 4.

Driver refusing to return forfeits 40s.

V. The Surveyors of Turnpike Roads shall and are authorised and required to make convenient Places for turning such Carriages as aforesaid upon every Road where Weighing Engines are erected, within Three Hundred Yards of the Toll Gate, on each Side thereof, if the Ground will admit of the same. 13 Geo. III. c. 84. § 4.

Surveyors required to make Turning Places near Weighing Engines.

VI. A List of the Names of all the Trustees and Creditors, and also of the Clerk, Treasurer, and Surveyor of the Road, must be put up in the House or Building where the Weighing Engine is placed,

List of the Trustees to be fixed up in the Weighing House.

placed, to be inspected by the Owner or Driver of such Carriages. 13 Geo. III. c. 84. § 4.

Persons unload-
ing Goods to
evade the
Weighing En-
gine, forfeit 5l.
to be levied on
the Owner.

VII. If any Person shall unload, or cause to be unloaden, any Goods, &c. from any Cart, Waggon, or other Carriage, except such as are before excepted *, before the same shall come to any Turnpike Gate, or Weighing Engine, or shall load upon such Carriage after the same has passed such Turnpike Gate or Weighing Engine, any Goods, &c. taken or unloaden from any Horse, Cart, or other Carriage belonging to, or hired or borrowed by the same Waggoner or Carrier, in order to avoid Payment of the aforesaid Duty or additional Toll, and shall be lawfully convicted of the Offence before one or more Justice or Justices of the Limit where it is committed, on Oath of one Witness, shall forfeit and pay the Sum of Five Pounds, to be levied upon the Goods and Chattels of the Owner of the Carriage; and if the Driver of such Carriage, not being Owner, shall be convicted of such Offence as aforesaid, he shall be committed to the House of Correction for the Space of One Month.

Driver not being
Owner, offend-
ing as aforesaid,
subject to a
Month's Im-
prisonment.

13 Geo. III. c. 84. § 10 †.

Owners of Car-
riages turning
out to avoid be-
ing weighed for-
feit from 5l. to
20s.

VIII. The Owner of any Waggon, Cart, or Carriage, being Driver thereof,

* Vide Sect. 2. of this Chapter. † Vide Remark, travel-

travelling on any Turnpike Road where any Weighing Engine is erected, and turning out of the said Road into any other Road in order to avoid being weighed, and afterwards coming into or proceeding on the former Road again, if convicted of such Offence, on Oath of one Witness, before one or more Justice or Justices of the Limit where the said Offence is committed, shall forfeit a Sum not exceeding Five Pounds, nor less than Twenty Shillings, for every Offence.

The Driver of any such Carriage, not being Owner, committing such Offence, and being convicted thereof in Manner Driver not being Owner, offending as aforesaid, forfeits from 50s. to 10s. aforesaid, shall forfeit a Sum not exceeding Fifty Shillings, nor less than Ten Shillings, for every Offence. 13 Geo. III. c. 84. § 11.

IX. The Trustees of every Turnpike Road in *England*, upon the 30th Day of *September*, 1773, are required to put up, Trustees to fix on Toll Gates a Table of Weights. or cause to be put up, and afterwards to be continued on every Toll Gate within their respective District, a Table of the Weights allowed for each Carriage, with the Loading thereof, in Summer and Winter. 13 Geo. III. c. 84. § 66.

X. The Trustees of Turnpike Roads are required, from Time to Time, to examine, or cause to be examined, every Trustees to examine their Weighing Engines. Weighing Engine which shall be erected on

on their respective Roads, in order to see that the same, with the Weights belonging thereunto, is kept in good Condition to weigh Carriages and their Loading with Accuracy. 13 Geo. III, c. 84. § 66.

Quarter Sessions,
on Complaint,
may order En-
gines to be erect-
ed.

XI. If at any General Quarter Sessions of the Peace, upon Complaint made by any Justice, or by any Two Creditors, or any Two Trustees of any Turnpike Road within the Jurisdiction of the said Sessions, that such Road is much damaged by excessive Weights being carried thereon, and that no Weighing Engine is erected, or ordered to be erected on the same, the Justices, at such Quarter Sessions, may summon the Clerk, Surveyor, and Treasurer of such Road, to appear at their next General Quarter Sessions, to shew Cause why such Engine or Engines should not be erected at or near such Gate or Gates upon such Roads as shall be described in such Summons, and if at such subsequent Sessions the said Clerk, Surveyor, and Treasurer, or some or one of them, shall not appear, or appearing shall not shew sufficient Cause against the erecting such Engine or Engines, the Justices, at such Sessions, may order one or more to be erected on such Road, at such Place or Places as they may think proper; and a Copy of the Order for that Purpose must be forthwith delivered to the Clerk of
the

the Road, and the Trustees, at their next Meeting after their Clerk shall have been served with a Copy of the said Order, must contract, or cause a Contract to be made, with some proper Person or Persons for erecting such Engine or Engines with all convenient Speed; and the Treasurer of the said Road must pay the Expence of erecting the same out of the Money which shall then be, or shall next come into his Hands from the Tolls of the Road. 13 Geo. III. c. 84. § 7.

XII. In order to compensate for the Expence of erecting Weighing Engines, and to prevent Prejudice to Creditors, who have lent, or shall lend, Money upon Security of the Tolls, all Acts of Parliament for repairing and amending Turnpike Roads, the Trustees whereof, within Twelve Calendar Months after the Commencement of this Act *, shall cause such Engines to be erected and used thereon, pursuant to the Directions and true Intent and Meaning of the Act, shall be continued, and be in full Force for Five Years, to be computed from the several Ends and Expirations of such Acts respectively; subject to all Tolls, Duties, Penalties, Forfeitures, Remedies, Powers, Authorities, Clauses, Rules, Directions, Payments, and Provisions, respectively

Trustees who erect Weighing Engines before Michaelmas 1774, have their Acts continued Five Years beyond the Term for which they were granted.

* The Act commenced at Michaelmas 1773.

made and enacted thereby. 13 Geo. III.
c. 84. § 5.

Trustees of different Roads may join to build an Engine.

XIII. When Two or more Turnpike Roads meet at or near the same Place, the Trustees of such Roads respectively, at a Meeting to be held for that Purpose, may fix on some convenient Place whereon to erect a weighing Engine which will accommodate them both or all ; and by Agreement among themselves at such Meeting may proportion the Expence of erecting and maintaining such Engine ; and likewise the Money arising from Forfeitures to be incurred for Overweight thereat, among their several Roads, in such Manner as to them may appear just and reasonable. 13 Geo. III. c. 84. § 8.

C H A P. III.

Limitation of the Number of Horses.

Carriages on Sixteen-inch Rollers unlimited.

SECTION I. **A**LL Carriages moving upon Rollers with flat Surfaces of the Breadth of Sixteen Inches may be drawn with any Number of Horses or other Cattle. 13 Geo. III. c. 84. § 14.

II. Wag-

II. Waggon, or other Four-wheeled <sup>Nine-inch
Wheels,</sup> Carriages, with Nine-inch Wheels, are to be drawn with no more than Eight Horses; and Carts, or other Two-wheeled Carriages, with such Wheels, are to be drawn with no more than Five Horses.

The Horses in such Carriages must <sup>To draw in
Pairs.</sup> draw in Pairs, except an odd Horse in any Team, or in Cases where the Number of Horses does not exceed Four.
13 Geo. III. c. 84. § 13.

III. Waggon, &c. with Six-inch <sup>Six-inch
Wheels.</sup> Wheels, are to be drawn with no more than Six Horses; and Carts, &c. with Six-inch Wheels, with no more than Four Horses *. 13 Geo. III. c. 84. § 13.

IV. Waggon, &c. with Wheels un- ^{Narrow Wheels.} der the Breadth of Six Inches, are to be drawn with no more than Four Horses; and Carts, &c. with Wheels under the Breadth of Six Inches, with no more than Three Horses †. 13 Geo. III. c. 84. § 13.

* The Horses in such Carriages must not draw in Pairs, excepting by particular Order of Trustees. Vide § 12. of this Chapter.

† The Horses in such Carriages must not draw in Pairs, excepting in Carriages drawn by Two Horses only. Vide § 12. of this Chapter.

N. B. When Oxen are used, Two Oxen must be considered as One Horse for all the Purposes of this Act. Vide Chap. IV. § 13.

Owner using super-
numerary
Horses forfeits
5l. Driver, not
being Owner,
20s.

V. The Owner of every Waggon, Wain, Cart, or Carriage, shall forfeit the Sum of Five Pounds, and the Driver thereof, not being the Owner, the Sum of Twenty Shillings for every Offence, against the Provisions aforesaid, to any Person or Persons who shall sue for the same *. 13 Geo. III. c. 84. § 13.

Information
must be laid in
Three Days.

VI. In case of Prosecution by Way of Information, before a Justice, for any Forfeiture incurred by any Owner or Driver of any Carriage having a greater Number of Horses therein than are allowed by the Act, no such Information to be laid but within three Days after Commission of the Offence.

Action within a
Month.

In case of Prosecution by Way of Action for the said Offence, no such Action shall be commenced but within one Calendar Month after the Offence is committed.

Notice of Prosecution to be given to the Driver on the same Day.

No such Information shall be laid, or Action commenced, unless Notice be given by the Informer to the Driver of the Carriage on the Day on which the Offence is committed, of his Intention to complain thereof.

Offender living remote, Justice may dismiss the Complaint.

If in case of an Information it shall appear to the Justice before whom it is laid, that the Offender lives so remote

* Vide Remark.

as to make it inconvenient to summon him to appear before such Justice, the said Justice may dismiss the Complaint, and leave the Informer to his Remedy by Action at Law. 13 Geo. III. c. 84.

§ 15.

VII. Any Constable, Tythingman, Peace Officer, or any other Person, may apprehend Drivers of-
 Surveyor, or any other Person, may apprehend, or cause to be apprehended, fending,
 the Driver of any Carriage drawn by more than the Number of Horses, &c. before allowed; or not marked according to Direction of this Act *, and take such Driver before one or more Justice or Justices of the Limit where the Offence shall be committed; and on Conviction of such Offence, by Confession of the Party, or Oath of one credible Witness, the Offender shall forfeit and who forfeit from 5l. to 10s.
 pay a Sum not exceeding Five Pounds, nor less than Ten Shillings, at the Discretion of such Justice or Justices †.
 13 Geo. III. c. 84. § 21.

VIII. If any Person shall take off or Persons taking off Horses 10 -
 cause to be taken off any Horse or feet 5l.
 Horses, or other Beasts of Draught, from any Waggon or other Carriage, at or before the same shall come to any Gate or Turnpike, with Intent to avoid any Toll, Forfeiture, or Penalty, for

* Vide Chap. XIX.

† Vide Remark.

drawing with more Horses, or in any other Manner than is allowed by the Act, such Person so offending, being convicted of the Offence before one or more Justice or Justices of the Limit where the Offence is committed, upon Oath of one credible Witness, shall forfeit and pay the Sum of Five Pounds. 13 Geo. III. c. 84. § 17.

Gate-keeper not
prosecuting for
supernumerary
Horses forfeits
40 s.

IX. If any Toll-gatherer, or Gate-keeper, shall suffer any Waggon, Wain, Cart, or other Carriage, to pass through any Toll Gate, or to be drawn within his View, or with his Knowledge, with any greater Number of Horses, or Beasts of Draught, or drawn in any other Manner than is before directed, or without such Names and Descriptions painted thereon as this Act directs *, and shall not within the Space of one Week proceed for the Recovery of the Forfeiture, or Penalty inflicted for each Offence, in the Manner appointed by this Act, such Toll-gatherer, or Gate-keeper, shall forfeit and pay for every Neglect the Sum of Forty Shillings. 13 Geo. III. c. 84. § 57.

Trustees may al-
low supernume-
rary Horses for
drawing up steep
Hills.

X. If it shall appear to the Trustees of any Turnpike Road, or any Seven of them, at a Public Meeting, by the Oath of one or more Witness or Witnesses,

* Vide Chap. XIX.

expe-

experienced in Levelling, that any Part of the Rise of any Hill upon such Road, shall be more than Four Inches in one Yard, in such Case such Trustees may allow such Number of Horses as they shall judge necessary, not exceeding Ten for Waggon with Nine Inch Wheels, nor Six for Carts with Nine Inch Wheels; nor exceeding Seven for Waggon with Six Inch Wheels, nor Five for Carts with Six Inch Wheels; nor exceeding Five for Waggon with Wheels under Six Inches, nor Four for Carts with Wheels under Six Inches.

And in case it shall appear to such Trustees, in Manner aforesaid, that the whole Rise of any Hill, taken together, shall be more than Four Inches on an Average, they, or any Seven of them, may allow as many Horses as they may think fit, to be used in such Waggon and Carts respectively, for the Purpose only of drawing up such Hill, the Length whereof must be specified in the Order of Allowance; and the Termination at each End be marked by a Post or Stone placed there.

And the said Order of Allowance must be certified by the Trustees, or their Clerk, to the next General Quarter Sessions of the Peace for the Limit wherein the Hill is situated, and if the Facts

Order of Trustees for that Purpose must be confirmed at the Quarter Sessions.

on which the said Order is founded be proved at the said Sessions, on Oath of one or more credible Witnesses or Witnesses, to Satisfaction of the Justices present, or the Majority of them, the Order shall be confirmed, and filed among the Records of the Sessions by the Clerk of the Peace; or otherwise shall be vacated and quashed.

And, from and after such Confirmation and Filing, no Person shall be liable to Penalty or Forfeiture for using such Number of Horses as shall be so allowed in drawing any Waggon or Cart up such Hill.

And the said Justices, at any subsequent Quarter Sessions, may re-consider the said Order of Allowance, and discharge the same if they think fit. 13 Geo. III. c. 84. § 18.

Justices may stop Proceedings for drawing with supernumerary Horses in deep Snow or on Ice.

XI. If it appear to the Satisfaction of any Justice or Justices, or Court of Justices authorized to enforce the Execution of this Act, on the Oath of credible Witnesses, that any Waggon, Cart or Carriage, could not, by Reason of deep Snow or Ice, be drawn with the respective Weights, and by the Number of Horses, &c. before allowed, such Justice or Justices, &c. may, and are hereby required, to stop all Proceedings before them respectively for the Recovery of any

any Penalty or Forfeiture incurred by drawing with a greater Number of Horses than is allowed by this Act. 13 Geo. III. c. 84. § 19.

XII. No Waggon, Wain or Cart, with Wheels under the Breadth of Nine Inches (except Carriages drawn by Two Horses only), must pass on any Turnpike Road, or through any Turnpike Gate, if drawn by Horses in Pairs, except such Waggon, Wains and Carts, with Six Inch Wheels, as shall be authorized to be so drawn by the Trustees of any Turnpike Road within their District, by Order made at a Public Meeting, consisting of Seven Trustees or more, and fixed, in Writing, on every Toll-gate within such District; which Order the Trustees may, at any subsequent Meeting, revoke; and afterwards make a new One if they think fit, for the same Purpose *. 13 Geo. III. c. 84. § 20.

Horses not to be drawn in Pairs unless with Nine Inch Wheels, or in Carriages drawn by Two Horses, or with Six-inch Wheels by particular Order of Trustees.

XIII. The Justices of the Peace within the Principality of Wales, at their respective General Quarter Sessions, to be held in the Week after *Michaelmas*, may license an Increase of the Number of Horses to be employed in drawing Carriages on any Turnpike Road within their respective Jurisdictions, over and

Justices in Wales may licence an increased Number of Horses.

* Vide Remark,

above the Number before limited, if upon Enquiry into the State of such Road they shall find it necessary; and from time to time, at any *Michaelmas* Quarter Sessions, may revoke, alter, or vary the same as they shall think fit. And neither Owner nor Driver of the Horses so licensed shall incur any Forfeiture for using such increased Number of Horses.
13 Geo. III. c. 84. § 59.

C H A P. IV.

Tolls Additional; Diminution of Tolls; Composition for Tolls; Exemption from Tolls; Penalty of evading Tolls.

Increase of Toll
on Narrow
Wheels One
Half;

SECTION I. **T**HE Trustees of any particular Turnpike Act, or such Persons as are authorised by them, shall and may, and are required, to demand and take, for every Waggon, Wain, Cart or Carriage, having the Fellies of the Wheels thereof of less Breadth or Gauge than Six Inches from Side to Side at the least, at the Bottom or Sole thereof, and for the Horses, or Beasts of Draught, drawing the same, one Half more than the Tolls or Duties which are or shall be payable for the same respectively *. 13 Geo. III. c. 84. § 23.

* V.de Remark.

I

II. The

II. The Trustees of any particular Turnpike Act, or such Persons as are authorized by them, shall and may, and are required, from and after *September the 29th, 1778*, to demand and take for every Waggon, Wain, Cart or Carriage, having the Fellies of the Wheels thereof of less Breadth or Gauge than Six Inches from Side to Side, at the least, at the Bottom or Sole thereof, double the Tolls or Duties which are or shall be payable by such Acts respectively *. 13 Geo. III. c. 84. § 23. 16 Geo. III. c. 44. § 1.

III. Waggons, Carts or Carriages, moving upon Rollers of the Breadth of Sixteen Inches on each Side thereof, with flat Surfaces, are permitted to pass Toll-free on all Turnpike Roads for the Term of Five Years, from the Twenty-ninth of *September 1774*: And from and after the Expiration of the said Term of Five Years, shall pass through any Turnpike Gate, on any Turnpike Road, upon paying only so much of the Tolls and Duties as shall not exceed one Half of the full Toll or Duty payable by this, or any Turnpike Act, for all Waggons, Wains or Carts, having the Fellies of the Wheels of the Breadth or Gauge of Six Inches from Side to Side, or for the Horses,

And after September 29th, 1778, double.

Rollers exempt from Toll for Five Years;

And then to pay Half the Toll of Six-inch Wheels.

* Vide Remark.

or

or Beasts of Draught drawing the same, and not rolling a Surface of Sixteen Inches on each Side thereof *. 13 Geo. III. c. 84. § 26. 14 Geo. III. c. 82. § 5.

Nine-inch
Wheels rolling
Sixteen Inches
to pay only Half
Toll.

IV. No more than Half Toll shall be paid in respect of Waggon's having the Fellies of the Wheels thereof of the Breadth of Nine Inches, and rolling a Surface of Sixteen Inches on each Side thereof †. 13 Geo. III. c. 84. § 26.

Diminution of
extravagant Tolls
in Favour of Six-
inch Wheels.

V. In Cases where, by particular Turnpike Acts, high and extraordinary Tolls are imposed on Waggon's, Carts, and other Carriages, drawn by more than a certain Number of Horses, or Beasts of Draught, therein respectively mentioned, with an Intent, in Effect, to prohibit the Passage of such Carriages, and thereby the better to preserve the said Roads; it shall and may be lawful for the Trustees appointed in or by Virtue of such Acts, or any Five or more of them respectively, within their respective Districts, and they are authorised and required, at the First Meeting after the Commencement of this Act, to mitigate, lessen, and reduce the said high and extraordinary Tolls and Duties, for and in respect of such Waggon's, or other wheeled Carriages only, having the

* Vide Remark.

† Vide Remark.

Wheels of the Breadth or Gauge of Six Inches, as aforesaid, in such Manner as no greater Toll or Duty, in respect to Waggon, be demanded or taken for the same than is directed by the said Acts respectively to be paid for Waggon and other Four-wheeled Carriages, drawn by Four Horses or Beasts of Draught; and that no greater Toll or Duty be demanded or taken for Carts having the Fellies of the Wheels of the Breadth or Gauge of Six Inches, than is directed by such Acts respectively to be taken for Carts drawn by Three Horses: And the Trustees within their respective Districts, or any Five of them, are authorised and required to give Directions in Writing to their several Collectors to take and receive such Tolls and Duties, and no other *. 13 Geo. III. c. 84. § 22.

VI. The Trustees of Turnpike Roads, or their Lessee or Lessees, must not make Composition for Tolls, for or in respect of any Waggon, Wain, Cart or Carriage, or the Horses or Beasts of Draught drawing the same; unless the Breadth of the Wheels thereof be Six Inches or more. 13 Geo. III. c. 84. § 9.

VII. No Exemption from, or Abatements of Toll, granted by particular

* Vide Remark.

Turnpike

No Composition allowed for narrow Wheels under Six Inches.

Exemptions or Abatements of Toll allowed by particular Acts are permitted only to Wheels of Six Inches and upwards.

Turnpike Acts to Waggon, or other Carriages, in particular Cases, as carrying some peculiar Kinds of Goods, &c. shall be permitted to any such Waggon, or other Carriage, with Wheels under the Breadth of Six Inches: But such Carriages shall be subject to the full Tolls payable by the particular Act for other Carriages of the same Kind not exempt or favoured by such Act, together with the additional Half and Double Tolls directed by this Act. This Regulation does not extend to Carts and Carriages employed in carrying Corn or Grain in the Straw, Hay Straw, Fodder, Dung, Lime for the Improvement of Land, or other Manure, or any Implements of Husbandry only, but such, if exempted or favoured by the particular Act, shall enjoy such Exemption or Favour *.
13 Geo. III. c. 84. § 24.

This Clause does not affect Carriages employed in Husbandry, &c.

No Exemption for Wheels deviating more than One Inch from a flat Surface.

VIII. No Person shall be allowed to take the Benefit of any such Exemption, or to have the Privilege herein before given, of compounding *, in respect to any Carriage having the Fellies of the Wheels thereof of the Breadth or Gauge of Six Inches or upwards, unless the Fellies, and the Tire upon such Fellies, shall be flat;—such Fellies and Tire to

* Vide Remark.

be deemed flat as does not deviate more than One Inch from a flat Surface*.

13 Geo. III. c. 84. § 25. 16 Geo. III. c. 39. § 2.

IX. In Cases where particular Turnpike Acts grant Exemption from Toll to Cattle going to and from Water or Pasture, such Exemption shall extend only to such Cattle as shall be driven to and from Water or Pasture, from one Parish to the next adjoining Parish, or to such Cattle as shall not pass upon any Turnpike Road more than the Space of Two Miles in going to or returning from Water or Pasture. But this Regulation does not exempt from Payment of Toll any Cattle going to and from any Water or Pasture liable, by any particular Turnpike Act, to pay Toll for the same. 17 Geo. III. c. 16.

Limitation of Exemption granted by particular Acts to Cattle going to and from Pasture or to Water.

X. No Toll is to be taken at any Toll-Gate for Carriages only employed in carrying Materials for Repair of any Turnpike Road, or public Highway, or for going to such Employment, or returning after having been so employed. 13 Geo. III. c. 84. § 60.

Exemption of Carriages employed in Road-mending.

XI. No Person shall be liable to pay Toll, at any Toll-Gate erected, or to be erected, across or on the Side of any

Exemption from Tolls to Persons not passing 100 Yards on the Road;

* Vide Remark.

Turn-

Turnpike Road, or be subject to any Penalty for any Carriage, Horse, or Beast, which shall only cross such Road, and shall not pass above One Hundred Yards thereon, except over some Bridge, erected at a considerable Expence, by the Trustees of such Road.

except over
Bridges:

And in Case of
Toll-Gate fixed
by Act of Par-
liament before
13 Geo. III.

But this Exemption shall not extend to any Toll-Gate directed, or authorised, to be set up at any Place particularly specified and mentioned in any Act of Parliament, for repairing any Highway, or Road, passed before the General Turnpike Act of the Thirteenth Year of the Reign of his present Majesty. 13 Geo. III. c. 84. § 34. 14 Geo. III. c. 57.

Persons taking
Benefit of Ex-
emptions fraudu-
lently forfeit
from 5l. to 40s.

XII. If any Person or Persons shall take the Benefit of any Exemptions under, or by Virtue of, this, or any other Turnpike Act, in any fraudulent or collusive Manner whatsoever, such Person or Persons shall forfeit, for every Offence, a Sum not exceeding Five Pounds, nor less than Forty Shillings, at the Discretion of the Justice or Justices before whom the Offender shall be convicted. 13 Geo. III. c. 84. § 28.

Two Oxen rec-
koned as One
Horse.

XIII. In all Carriages wherein Oxen or neat Cattle shall be used, Two Oxen or neat Cattle shall be considered as One Horse, for all the Purposes mentioned in this Act, or in any particular Turnpike

pike Act, with respect to Tolls, or other Things. 13 Geo. III. c. 84. § 67.

XIV. If any Person shall unload, or Penalty for unloading Goods to evade the Toll. 5l. on the Owner. cause to be unloaden, any Goods, &c. from any Cart, Waggon, or other Carriage (except such Carriages as are herein before excepted), in order to carry considerable Quantities of Goods through any Turnpike Gate in the same Day, and thereby to pay less Toll at such Gate then would have been paid if such Goods had not been unloaden, each and every Person so offending in any of the Cases aforesaid, and being thereof lawfully convicted, on Oath of one Witness, before one or more Justice or Justices of the Limit where the Offence is committed, shall forfeit and pay the Sum of Five Pounds, to be levied upon the Owner of the Carriage. And every Driver, not being Driver not being Owner, a Month's Imprisonment. Owner of such Carriage, and being convicted as aforesaid, shall be committed to the House of Correction for the Space of One Month *. 13 Geo. III. c. 84. § 10.

XV. The Owner of any Waggon, Penalty for turning out of the Road to evade the Toll. Cart, or Carriage, or other Person, being Driver thereof, travelling on any Turnpike Road, who shall turn out of the same into any other Road to avoid paying Toll, and shall afterwards proceed

* Vide Remark.

M

with

On the Driver,
if Owner, 5l. to
20s. if not
Owner, 50s. to
10s.

with such Carriage into and on the same Turnpike Road, if convicted of such Offence, on Oath of One Witness, before one or more Justice or Justices of the Limit where the Offence was committed, shall forfeit, if he be Owner, a Sum not exceeding Five Pounds, nor less than Twenty Shillings; and if he be Driver, and not Owner, a Sum not exceeding Fifty Shillings, nor less than Ten Shillings, for every Offence. 13 Geo. III. c. 84. § 11.

CHAPTER V.

General Exception.

Carriages to
which the Act
does not extend.

NOTHING herein before contained shall extend, or be construed to extend, to any Chaise Marine, Coach, Landau, Berlin, Chariot, Chaise, Chair, Calash, or Hearse, or to the Carriage of such Ammunition, or Artillery, as shall be for his Majesty's Service; or to any Cart or Carriage drawn by One Horse, or Two Oxen, and no more; or to any Carriage having the Sole or Bottom of the Fellies of the Wheels thereof of the Breadth of Nine Inches, which shall be laden with One Block of Stone, One Piece

Piece of Marble, One Cable Rope, One Piece of Metal, or One Piece of Timber *. 13 Geo. III. c. 84. § 27.

CHAP. VI.

General Power of Reducing Tolls.

SECTION I. **T**HE Trustees of any particular Turnpike Trustees may lower Tolls, Act now in Force, although not empowered by such Act, or any Seven of them, at a Meeting to be held for that Purpose, of which One Calendar Month's Notice must be given in Writing, affixed on all Turnpike Gates which shall be then erected on their Roads, and also in some public News-paper circulated in that Part of the Country, may, from time to time, lessen or reduce all or any of the Tolls granted by their Act, for and during such Time as the said Trustees, or any Seven of them, shall think proper; and afterwards, at any Meeting to be held as aforesaid, may advance, and advance them again. as they see Occasion, all or any of the Tolls so lessened, to any Sum or Sums, not exceeding the several Rates granted by their Act. 13 Geo. III. c. 84. § 29.

* Vide Remark.

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II. But

Tolls not to be
lowered but with
Consent of the
Creditors.

II. But excepting the whole Money borrowed on the Credit of the Tolls shall have been paid and discharged, the said Tolls shall not be reduced without Consent of the Person or Persons intituled to Five-Sixths of the Money remaining due on such Tolls. 14 Geo. III. c. 84. § 30.

C H A P. VII.

Power of Farming Tolls.

Trustees may
farm Tolls,

SECTION I. **T**HE Trustees of any particular Turnpike Act, although not empowered by such Act, or any Seven or more of them, at a public Meeting, may let their Tolls to farm by Virtue of this Act.

under particular
Directions.

But whenever Tolls are let to Farm by Virtue of this Act, or of any particular Turnpike Act, the following Directions must be observed, *viz.*

Month's Notice
of the Time and
Place of letting
them to be
given.

The Trustees must cause at least One Month's Notice of the Time and Place of letting such Tolls, by fixing such Notice on all the Toll Gates belonging to the Road, and also on the Market-cross of the Market-town nearest the Place where the said Tolls are to be let, and also in
some

some public News-paper circulated in that Part of the Country.

The said Notice must specify the Sum Tolls to be let by Auction. which the Tolls produced in the preceding Year, clear of the Salaries of the Collectors, and must also signify that the said Tolls will be let by Auction to the best Bidder, on his producing sufficient Sureties for Payment of the Money, Monthly or Quarterly, as shall be required by the Trustees, and also that the Tolls will be put up at the Sum which they were let for, or produced in the preceding Year, clear of the Salaries of the Collectors.

To prevent Fraud, or undue Preference, Bidding to be by a Minute Glass. in letting the said Tolls, the Trustees must provide a Glass, with so much Sand in it as will run from one End to the other in One Minute; which Glass, at the Time of letting the Tolls, must be set upon a Table, and immediately after every Bidding, the Glass must be turned, and as soon as the Sand is run out it must be turned again; and so for Three Times, unless some other Bidding intervene: And if no other Person shall bid till the Sand have run through the Glass for Three Times, the last Bidder shall be Farmer, or Renter, of the said Tolls, and shall forthwith enter into an Agreement for taking thereof, and paying the Money,

at the Times specified in the Notice, or as shall be agreed between him and the Trustees.

In case no Bidder shall offer, the Trustees may appoint a Collector of the Tolls, or fix some future Day for the letting thereof, as they shall judge most proper, giving such Notice as aforesaid, and may, in that Case, put them up at such Sum as they shall think fit. 13 Geo. III. c. 84, § 31.

Farmer taking
illegal Toll for-
feits 5l. and his
Contract,

II. Any Farmer, or Renter of Tolls, who shall take a greater or less Toll from any Person than he is authorised or directed to take by this Act, or by the particular Act under whose Trustees he farms, shall, for every such Offence, forfeit Five Pounds, and also his Contract, if the Trustees shall think fit to vacate the same*. 13 Geo. III. c. 84. § 31.

C H A P. VIII.

Mortgagees of Tolls, &c.

Mortgagees in
Possession of
Tolls to account
to the Trustees,
under Penalty of
10l.

SECTION I. **M**ORTGAGEES who are in Possession of any Turnpike Gates; or are in Possession

* Every other Gate-keeper taking more or less Toll than he ought, forfeits 40s. Vide Chap. X. § 9.

of

of any Lands or Tenements, the Rents and Profits whereof are appropriated to the Repair of any Part of any Turnpike Road, shall, within Fourteen Days after they have received Notice in Writing from the Trustees of such Road, or any Five of them, render, upon Oath to be administered and taken by and before One Justice of the Peace, or any One Trustee of such Road, an exact Account in Writing to such Trustees, or to any Person appointed by them, or by any Five of them, to be named in such Notice, of all Monies received by such Mortgagees, or by any other Person for their Use and Benefit, or by their Authority, at such Turnpike Gate, or otherwise; and likewise of what they have expended in keeping or repairing the same. And in case they shall neglect to render such Account, when required in the Manner before directed, they shall forfeit, for every Refusal, Neglect, or Omission, the Sum of Ten Pounds, to be recovered by the said Trustees in a summary Manner, before One Justice, and the Forfeiture, when recovered, shall be applied to the Use of the Road where such Turnpike Gate is placed. 13 Geo. III. c. 84. § 52.

II. If any Mortgagee shall keep Possession of any Toll Gate by himself, or by any other Person in his Behalf, and shall

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Mortgagee keeping illegal Possession forfeits double the Sum received above his Money, and treble Costs.

shall receive the Tolls and Duties thereat, or shall keep Possession of any such Rents and Profits as above mentioned, after he shall have received the full Money due on his Mortgage, and the Interest thereof, with Costs; such Mortgagee shall forfeit and pay, as a Penalty, to the Trustees, double the Sum of Money which he has received over and above the Sum of Money due to him as aforesaid, with treble Costs of Suit; to be recovered by the said Trustees, or by their Treasurer or Clerk, by Action of Debt, Bill, Complaint, or Information, in any of his Majesty's Courts of Record. And the said Penalty, when recovered, shall be applied to the Use of the Road where the Gate is placed, or to which the Rents are appropriated. 13 Geo. III. c. 84. § 53.

C H A P. IX.

Toll Gates.

No Side Gate to
be erected with-
out 21 Day's
Notice. &c.

SECTION I. **N**O Toll Gate is to be erected on the Side of any Turnpike Road, unless the same be ordered by the Trustees, at a Meeting, of which Twenty-one Days public Notice has been given in Writing, affixed on

on all the Toll Gates erected on such Roads, and also in some public Newspaper circulated in that Part of the Country, specifying the Place where such Side Gate is proposed to be erected; and unless Nine Trustees at least, being a Majority of those present, shall sign the Order at such Meeting. 13 Geo. III. c. 84.

§ 34.

II. Upon the 30th Day of *September*, 1773, the Trustees of every Turnpike Road in *England* are required to put up, or cause to be put up, and afterwards continued, upon every Toll Gate within their respective District, a Table of all the Tolls payable at such Gate, distinguishing each Toll, and the different Sorts of Carriages for which they are to be paid, where there shall be any Variation therein. 13 Geo. III. c. 84. § 66.

Table of Tolls
to be put on all
Toll Gates.

III. If the Trustees of any Turnpike Act shall abuse, or exceed their Power, by erecting, or causing to be erected, or continuing, or causing to be continued, any Gate or Gates, &c. where they have not Power, by Virtue of any Act of Parliament to erect the same; the Justices of the Limit where such Gate or Gates shall be erected or continued, may, at their General Quarter Sessions, upon Complaint of such Abuse, or Excess of Power, in a summary Way hear
and

and determine the Matter, and order the Sheriff of the County (who is hereby authorised and required to execute such Order) to remove such Gate or Gates.
13 Geo. III. c. 84. § 51.

C H A P. X.

Gate Keepers.

On Death of a Gate-keeper, Two Trustees may appoint a new One.

SECTION I. **A**NY Two or more Trustees, on the Death of any Gate-keeper, or Toll-gatherer, may appoint some fit Person in his Place till the next Meeting of Trustees, which Person so appointed shall have the same Power, and be accountable in the same Manner, as the Person deceased had, or would have been, if living. 13 Geo. III. c. 84. § 54.

Wife or Family of deceased Gate-keeper holding Possession how to be dispossessed.

II. If the Wife or Family of any deceased Gate-keeper shall refuse to deliver up the Possession of the House, Buildings, or Appurtenances, enjoyed in Right of the Office, within Four Days after a new Appointment is made as aforesaid; any Justice of the Limit where the Turnpike House is situated, may, by Warrant under his Hand and Seal, order the Constable, or other Peace Officer, with neces-

necessary Assistance, to enter such House and Premises in the Day-Time, and remove the Persons found therein, together with their Goods, out of such House, and put the new appointed Officer in Possession. 13 Geo. III. c. 84. § 54.

III. If any Gate-keeper or Toll-gatherer who shall be discharged from his Office by the Trustees, shall refuse to deliver up the Possession of the House, Buildings, and Appurtenances, enjoyed in Right of his Office, within Two Days after Notice of his Discharge shall be given him, or left at his House, any Justice of the Limit may remove him, and put the Person newly appointed into Possession, in the same Manner as in the Case last mentioned. 13 Geo. III. c. 84. § 54.

Discharged Gate-keeper how to be dispossessed.

IV. The Gate-keepers and Toll-gatherers of any Turnpike Road, when required by Notice in Writing from the Trustees, or any Five of them, shall render, on Oath (administered by and taken before any one Justice, or any Trustee of such Turnpike Road), a true and exact Account, in Writing, to the said Trustees, or to any Person, to be named in such Notice, appointed by them, or any Five or more of them, of all Monies received by them the said Gate-keepers, at their respective Toll Gates, or otherwise, on account of such Turnpike Road,

Gate-keepers to account on Oath, under Penalty of 5l.

not

not before accounted for; under Penalty of Five Pounds for every Offence or Neglect, to be recovered in a summary Manner before any One Justice, and applied to the Use of the Road. 13 Geo. III. c. 84. § 55.

No Gate-keeper to be removed as a Pauper unless actually chargeable.

V. No Gate-keeper of any Turnpike Road, nor any Person renting the Tolls thereof, and residing in any Toll-house belonging to the Trust, shall be removable from such Toll-house by the Order of any Justices, in Pursuance of any Laws for the Relief or Regulation of the Poor, unless he shall become actually chargeable to the Parish or Place where such Toll-house is situate. 13 Geo. III. c. 84. § 56.

No Gate-keeper shall gain a Settlement.

VI. No Gate-keeper, or Person renting the Tolls, and residing in the Toll-house of any Turnpike Road, shall thereby gain a Settlement in any Parish or Place whatever. 13 Geo. III. c. 84. § 56.

No Tolls or Toll-house assessable to Poor's Rate, or other Tax.

VII. No Toll or Toll-house, or any Person in respect of such Toll or Toll-house, shall be rated or assessed towards the Payment of any Poor's Rate, or any Public or Parochial Levy whatever. 13 Geo. III. c. 84. § 56.

Ale-house-keepers must not be Toll-gatherers, but may arm the Tolls.

VIII. No Person who shall keep any Victualing-house, Ale-house, or other Place of public Entertainment, or who shall sell any Wine, Cyder, Beer, Ale, Spirituous,

Spirituous, or other strong Liquors, by Retail, shall be capable of holding any Place of Trust or Profit under the Trustees of any Turnpike, or of collecting the Tolls thereof, during such Time as he shall keep such House, or sell such Liquors.

But such Person as aforesaid may farm the Tolls, provided he employs a Person to collect them who is not under such Incapacity. 13 Geo. III. c. 84. § 46.

IX. Any Gate-keeper who shall take a greater or less Toll than he is impowered to take by this Act, or the particular Turnpike Act of the Road on which he is employed, forfeits for every Offence the Sum of Forty Shillings. 13 Geo. III. c. 84. § 31.

Gate-keeper, taking an illegal Toll forfeits 40s.

X. Gate-keepers must not suffer any Carriages to be drawn with supernumerary Horses, or drawn in any other Manner than is before directed; or without such Names and Descriptions painted thereon as this Act directs*, without recovering the Penalty, under Pain of forfeiting, for every Neglect, Forty Shillings†. 13 Geo. III. c. 84. § 57.

Gate-keeper neglecting to prosecute for supernumerary Horses, &c. forfeits 40s. Vide Ch. III. § 9.

XI. Gate-keepers wilfully neglecting to inform against Persons offending against

Gate-keeper wilfully omitting to inform of Offences forfeits 10 l. Vide Ch. XX. § 7.

* Vide Chap. XIX.

† N. B. This is only a Repetition of Chap. III. § 9. introduced here for the Sake of giving every Thing relative to Gate-keepers in one View.

this

this Act, for the Space of a Week after the Offence is committed, forfeits Ten Pounds. 13 Geo. III. c. 84. § 73.

Gate-keeper refusing to deliver Accounts forfeits 20l.

XII. All Officers of Turnpike Roads, [under which Title it is apprehended that Gate-keepers are included,] must deliver up all Books, Accounts, Papers, or Writings, whatever, relative to their Offices, under Penalty of Twenty Pounds for every Neglect*. 13 Geo. III. c. 84. § 45.

Persons assaulting Gate-keepers, forfeit from 20l. to 40s.

XIII. Persons assaulting Gate-keepers in the Execution of their Office, or passing through Gates without paying Toll, forfeit from Ten Pounds to Forty Shillings†. 13 Geo. III. c. 84. § 75.

C H A P. XI.

Surveyors.

Surveyor is to contract for Materials :

SECTION I. **O**N every Turnpike Road, when a sufficient Quantity of Stone, Gravel, Chalk, or other Materials, cannot be provided and carried by the Labourers and Teams, required to perform Statute-duty upon the same, the Surveyor, with the Approbation of the Trustees, shall, and is

* Vide Chap. I. § 5.

† Vide Chap. XX. § 6.

hereby

hereby required to contract for the getting and carrying thereof, at some Time and Place to be fixed for that Purpose, of which Ten Days Notice in Writing, shall be given, by fixing the same on the Door of the Church or Chapel of such Parish, Township, or Place, or if there be no Church or Chapel, at the most public Place there; which Notice must specify the Work to be done, and the Time and Place of letting thereof. 13 Geo. III. c. 84. § 36 *.

II. No Surveyor shall have any Part, To have no Share in Contracts, Share, or Interest, directly or indirectly, in any such Contract as above, or in any other Contract or Bargain for Work or Materials, on account of any of the Roads, Bridges, or other Works under his Management, under Pain of forfeiting, for every Offence, the Sum of Ten Pounds, under Penalty of rol. and of being rendered incapable of ever being employed as a Surveyor, or under Authority of this Act, or any other Act of Parliament. 13 Geo. III. c. 84. § 36.

III. If any Surveyor shall, upon his own account, directly or indirectly, let to hire any Team, or sell or dispose of any Timber, Stone, or other Materials, Nor let Teams to hire, or sell Materials, without Licence, under Penalty of rol. to be used in making such Roads, Bridges, or other Works, as aforesaid, without

* Vide Remark.

Licence

Licence in Writing, for letting such Team to hire, or for selling such Materials, first obtained from the Trustees; such Surveyor shall forfeit, for every such Offence, the Sum of Ten Pounds, and shall be rendered ever after incapable of serving the Office of a Surveyor, as above mentioned. 13 Geo. III. c. 84. § 36.

Surveyor picking Stones.

IV. No Surveyor shall gather, or cause to be gathered, any Stones, for the Use of the Highways, upon or from the common Fields, or inclosed Lands, of any Person, without the Consent of the Occupier of such Fields or Lands, or a Licence from a Justice of the Limit where the Ground lies, for that Purpose, after having summoned the Occupier to come before him, and having heard his Reasons (if he appear and give any), for refusing his Consent, any thing contained in this Act, or any particular Turnpike Act, notwithstanding. 13 Geo. III. c. 84. § 61.

Surveyor suffering Obstructions on the Road, forfeits 40s.

V. Any Surveyor, or other Person, having the Care of any Turnpike Road, who shall knowingly suffer to be or remain, for the Space of Four Days, in any Part of such Road, within Ten Feet of either Side of the Middle thereof, any Post, Heap of Stones, Rubbish, Earth set up or raised above the Surface of such Road, by which the Passage thereof shall
or

or may be obstructed, impeded, confined, or straitened (except Posts, Blocks, Stones, or Banks of Earth fixed in the Ground, or raised for Security of Horse or Foot Paths, or Passages for Water, and also Direction Posts or Stones); such Surveyor, or other Person, shall forfeit the Sum of Forty Shillings. 13 Geo. III. c. 84. § 37.

VI. Surveyors, if required, by Notice in Writing from the Trustees, or any Five of them, must account in Writing, on Oath, for all Monies received by them on account of their respective Roads, under the Penalty of Five Pounds for every Refusal or Neglect, in the same Manner as is ordered for Gate-keepers*: The said Forfeiture to be applied to the Use of the Road. 13 Geo. III. c. 84. § 55.

VII. Surveyors of Turnpike Roads must give Security to Trustees for duly paying and accounting for Money coming to their Hands. 13 Geo. III. c. 84. § 66.

VIII. Surveyors must deliver up their Books, Accounts, Papers, &c. to the Trustees, on proper Notice, under Penalty of Twenty Pounds. 13 Geo. III. c. 84. § 5.

IX. No Person keeping a Victualling or Alehouse, or selling strong Liquors, can

* Vide Chap. X. § 4.

Surveyor must account, on Oath, for Monies received, under Penalty of 5l.

Surveyor must give Bond. Vide Chap. I. § 4.

Surveyor must deliver up Books, &c. under Penalty of 20l. Vide Chap. I.

Alehouse-keeper must not be Surveyor. Vide Chap. I. § 3.

Licence in Writing, for letting such Team to hire, or for selling such Materials, first obtained from the Trustees; such Surveyor shall forfeit, for every such Offence, the Sum of Ten Pounds, and shall be rendered ever after incapable of serving the Office of a Surveyor, as above mentioned. 13 Geo. III. c. 84. § 36.

Surveyor picking Stones.

IV. No Surveyor shall gather, or cause to be gathered, any Stones, for the Use of the Highways, upon or from the common Fields, or inclosed Lands, of any Person, without the Consent of the Occupier of such Fields or Lands, or a Licence from a Justice of the Limit where the Ground lies, for that Purpose, after having summoned the Occupier to come before him, and having heard his Reasons (if he appear and give any), for refusing his Consent, any thing contained in this Act, or any particular Turnpike Act, notwithstanding. 13 Geo. III. c. 84. § 61.

Surveyor suffering Obstructions on the Road, forfeits 40s.

V. Any Surveyor, or other Person, having the Care of any Turnpike Road, who shall knowingly suffer to be or remain, for the Space of Four Days, in any Part of such Road, within Ten Feet of either Side of the Middle thereof, any Post, Heap of Stones, Rubbish, Earth set up or raised above the Surface of such Road, by which the Passage thereof shall
or

or may be obstructed, impeded, confined, or straitened (except Posts, Blocks, Stones, or Banks of Earth fixed in the Ground, or raised for Security of Horse or Foot Paths, or Passages for Water, and also Direction Posts or Stones); such Surveyor, or other Person, shall forfeit the Sum of Forty Shillings. 13 Geo. III. c. 84. § 37.

VI. Surveyors, if required, by Notice in Writing from the Trustees, or any Five of them, must account in Writing, on Oath, for all Monies received by them on account of their respective Roads, under the Penalty of Five Pounds for every Refusal or Neglect, in the same Manner as is ordered for Gate-keepers*: The said Forfeiture to be applied to the Use of the Road. 13 Geo. III. c. 84. § 55.

VII. Surveyors of Turnpike Roads must give Security to Trustees for duly paying and accounting for Money coming to their Hands. 13 Geo. III. c. 84. § 66.

VIII. Surveyors must deliver up their Books, Accounts, Papers, &c. to the Trustees, on proper Notice, under Penalty of Twenty Pounds. 13 Geo. III. c. 84. § 5.

IX. No Person keeping a Victualling or Alehouse, or selling strong Liquors, can

* Vide Chap. X. § 4.

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hold

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Surveyor must deliver up Books, &c. under Penalty of 20l. Vide Chap. I.

Alehouse-keeper must not be Surveyor. Vide Chap. I. § 3.

hold any Place of Trust or Profit under Trustees, consequently such a One cannot be a Surveyor. 13 Geo. III. c. 84. § 46.

Surveyor neglecting to prosecute Offenders, forfeits 10l. Vide Chap. XX. § 7.

X. Surveyors not prosecuting Offenders against the Act, within One Week after the Offence is committed, forfeit, for every Neglect, Ten Pounds. 13 Geo. III. c. 84. § 73.

Misapplying Statute duty forfeits 40s. Vide Chap. XII. § 1.

XI. Surveyors misapplying Statute-duty forfeit Forty Shillings. 13 Geo. III. c. 84. § 32.

Refusing to erect Direction-posts, &c. forfeits 20s. Vide Chap. XVIII. § 4.

XII. Surveyors refusing to erect Guide-posts, Mile-stones, &c. when ordered by Trustees, forfeit Twenty Shillings. 13 Geo. III. c. 84. § 41.



CHAP. XII.

Statute Duty.

Statute-duty must be performed in the Parish where it arises.

SECTION I. **T**HE Statute-duty required by particular Turnpike Acts, and the Compositions arising therefrom, are to be performed, laid out, and expended upon the Turnpike Road, lying within the Parish, Township, or Place, from which such Duty shall be required, and not otherwise.

And

Any Turnpike Surveyor guilty of a Surveyor misap-
plying it, forfeits
40s. Misapplication of Duty in this respect, shall forfeit, for every Offence, Forty Shillings *. 13 Geo. III. c. 84. § 32.

II. In Cases where there are Two or more Turnpike Roads, under several Acts of Parliament, in the same Parish, Township, or Place, and the Statute-duty directed by all such Acts to be taken or applied for the Repair of such Turnpike Roads within such Parish, Township, or Place, shall exceed Three Days Duty in the whole; two or more Justices of the Limit where such Roads shall be, shall, and are required, at some Special Sessions, to adjust and proportion the Statute-duty betwixt such Turnpike Roads, and the other Highways, in the Parish, Township, or Place, in such Manner as they shall think fit, having regard to the Extent and Condition of the said several Roads and Highways, and also to the Tolls and Revenues arising from such Turnpike Roads respectively; the said Justices previously summoning the Clerks and Surveyors of such Turnpike Roads, and likewise the Surveyors of the Highways for the Parish, Township, or Place, who are hereby respectively re-

Case in which
the Justices may
adjust the Quota
of Duty to be
done on the
Turnpike Roads
and other High-
ways.

* Vide Remark.

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quired to attend the Justices upon such Summons. 13 Geo. III. c. 84. § 32.

Justices may order the whole Duty to the Parish Highways.

III. In Cases wherein any Turnpike Road is in such good Condition, ~~and its~~ Revenues are so large, that the Statute-duty required to be performed thereon, or some Part thereof may be dispensed with, and more conveniently employed for the Benefit of the other public Highways within the Parish, Township, or Place, in which such Turnpike Road lies; the Justices, at any Special Sessions, upon Application made to them by the Surveyor of such Parish, &c. may summon the Clerk and Surveyor of the Turnpike Road to appear before them at some other Special Sessions, and produce before them a State of the Revenues and Debts belonging to their Road; and the said Justices may then and there enquire into the State of the said Turnpike Road, and also of such other Highways; and if it shall appear to them, upon full and clear Evidence, that the Whole or any Part of the said Statute duty may be dispensed with from such Road, without endangering the Securities for the Money advanced upon the Credit of the Tolls thereof, and that such Statute-duty is wanted for the Repair of such other Highways; the said Justices may order the Whole or Part of such Statute-duty
to

to be performed upon the said Highways, not being Turnpike, under Direction of the Surveyor thereof, during such Time as to them shall seem just and reasonable, and the same shall be performed accordingly, notwithstanding any thing in this or any other Act of Parliament to the contrary. 13 Geo. III. c. 84. § 58.

C H A P. XIII.

Power of Trustees to agree with Persons liable to repair Roads by Tenure, &c.

SECTION I. **W**HEN any Persons are liable by Tenure, Inclosure, or otherwise, to contribute to the Repair of Highways, which having become Turnpike Roads are more used, and occasion an Increase of the Expence of repairing and maintaining them, which ought, in some Degree, to be laid upon such Turnpike Road; the Trustees of such Roads may agree with the Person or Persons liable to repair such Highway, for the Repair thereof, in such Manner as they shall think fit, and may contribute so much to the Repair thereof out of the Tolls arising upon such Turnpike Road, or out of the Statute-Duty

When Highways are made Turnpike, Trustees may agree with Persons liable to Repair by Tenure, &c.

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belonging to the same, as they shall think just and reasonable. 13 Geo. III. § 62 *.

Persons liable to repair Roads which are stopped up, are liable to repair the new ones.

II. Where Parts of Highways or Turnpike Roads have been, or may be, diverted and turned by legal Authority for Benefit of the Public, and Doubts have arisen or may arise, whether the Inhabitants of any Parish, Township, or Place, or any particular Person or Persons liable to repair the old Highway or Road, by Statute-duty, Tenure, or otherwise, ought to repair, or contribute to the Repair of the Whole, or some, or what Part or Proportion of such new Highway or Road: In all such Cases, for obviating such Doubts, and preventing Disputes about the same, it is directed, that the Inhabitants of every such Parish, &c. and every such Person liable as aforesaid, to repair the old Highway Road, or shall continue in the same Manner liable to the Repair of such new Highway or Road, or of so much thereof as shall be equal to the Burthen or Expence from which they were exonerated, by turning the same as aforesaid.

But if the several Parties interested cannot agree therein, the said Roads shall be viewed by two Justices of the Limit

• Vide Remark.

where they are situated, and the Matter adjusted and determined by them, in such Manner as they shall think just and reasonable; and from and after such determination of the said Justices, the Inhabitants of such Parish, &c. and the Person or Persons liable to repair such new Highway or Road, shall bear all Expences of Indictments and Prosecutions, for not repairing the same. And if it be found more convenient to fix a gross Sum, or an annual Sum, to be paid by any such Inhabitants, or Person or Persons towards the Repair of such new Highway or Road, instead of fixing the Part or Proportion of such new Highway or Road to be repaired by them, the Justices, with the Consent of such Person or Persons, and of the Inhabitants interested therein, at a public Vestry held for the Purpose, and also of the Trustees, at a public Meeting, if it be Turnpike Road, may order and direct the same accordingly; and their order shall be binding forever after on all Parties whatsoever. 13 Geo. III. c. 84. § 63.

C H A P. XIV.

Indictments of Turnpike Roads.

When Parishes
are indicted for
not repairing
Turnpike Roads,
Justices may ap-
portion the Fine
between the Pa-
rish and the
Trustees.

WHEN the Inhabitants of any Parish, Township, or Place, shall be indicted or presented for not repairing any Highway, being Turnpike Road, and the Court before whom such Indictment or Presentment is preferred, shall impose a Fine for the Repairs of such Road, the same shall be proportioned, together with the Costs and Charges attending the same, between the Inhabitants of such Parish, &c. and the Trustees of such Turnpike Road, in such Manner as to the said Court, upon Consideration of the Circumstances of the Case, shall seem just; and the Court may order the Treasurer of such Turnpike to pay the Sum proportioned for the same out of the Money then in his Hands, or to be received by him, in case it shall appear to the Court, from the Circumstances of the Turnpike Debts and Revenues, that the same may be paid without endangering the Security of the Creditors who have advanced Money upon Credit of the Tolls, which Order shall be binding upon the Treasurer, and he

is required to obey the same. 13 Geo.
III. c. 84. § 33.

C H A P. XV.

*Directions concerning Payment of Money
subscribed for making or repairing Turn-
pike Roads.*

IF any Person or Persons shall agree to advance any Sum or Sums of Money to be employed in making or repairing a Turnpike Road, or Highway intended to be made Turnpike, and shall subscribe his or their Names to any Writing for that Purpose, every such Person shall be liable to pay every Sum or Sums of Money so subscribed, according to the Purport of such Writing: And in Default of Payment thereof, within Twenty-one Days after the same shall become payable, according to the Purport of such Writing, and shall be demanded by the Person to whom the same is made payable by such Writing; or, if no Person be named therein for that Purpose, by the Treasurer of such Turnpike, or intended Turnpike Road, it shall and may be lawful for every such Treasurer, or other Person, to sue for and recover the same, in any of his Majesty's Courts
of

Persons sub-
scribing Money
to make or mend
Roads may be
sued for the
same.

of Record, by Action of Debt, or on the Case, Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, or more than one Imparlance, shall be allowed. 13 Geo. III. c. 84. § 35.

C H A P. XVI.

Power of Trustees to prosecute Nuisances by Indictment.

Trustees may indict Nuisances.

TH E Trustees of any Turnpike Road, or any Five of them, at a Public Meeting, may, and are hereby empowered, if they think fit, to direct Prosecutions by Indictment, against the Offender or Offenders, for any Nuisances done, committed, or continued, in or upon any of the Turnpike Roads, under their Care, respectively, at the Expence of the Revenues belonging to such Turnpike Roads, to be allowed by such Trustees, or any Five or more of them, at some subsequent Meeting; provided that nothing in this Act shall be construed to empower the Trustees to prosecute, or cause to be prosecuted, any Person for any such Offence, unless upon Confession of the Offender, or producing one or more Witness or Witnesses to prove Commission of the Offence *. 13 Geo. III, c. 84. § 47.

* Vide Remark.

C H A P.

C H A P. XVII.

Application of the Powers of the General Highway Act to the Use of Turnpike Roads.

SECTION I. **W**HENEVER the Powers given by any particular Turnpike Act are found ineffectual for the several Purposes of providing and carrying Materials for the Repair of the Roads therein described, or of enlarging, diverting or turning the same, or of stopping up and selling or disposing of the old Roads so to be diverted or turned, or of making, opening, and cleansing of Ditches and Drains, cutting Trees and Hedges, and calling forth and compelling the Performance of the Statute-Duty which shall belong to such Turnpike Road, the Surveyors of such Turnpike Road shall and may, with the Approbation of the Trustees, apply any Part of the Toll and Statute-Duty arising to, from, or in respect of such Turnpike Road, in the Execution of all the Powers, Clauses, Provisions, and Regulations contained in any Act or Acts of Parliament, made or to be made for the Amendment and Preservation of the Public Highways of this Kingdom, (which

Application of the Powers of Highway Acts to Turnpike Roads.

(which Highways comprehend and include Turnpike Roads), and may execute and enforce the same upon and to the Benefit of such Turnpike Road, for the several Purposes aforesaid, as fully and amply, but upon such Terms, and under such Restrictions, and in such Manner and Form, to all Intents and Purposes, as the Surveyor of any Parish, &c. may do by Virtue of such Act or Acts of Parliament. 13 Geo. III. c. 84. § 70.

Materials to be
paid for.

II. Provided that when any Materials are dug or got by the Surveyor of any Turnpike Road, for the Use of such Road, in the several inclosed Lands or Grounds of any Person, by or under the Authority of this Act, or of such Highway Act or Acts as aforesaid, Satisfaction must be made by the Trustees to the Owner or Occupier of such Lands or Grounds for such Materials, and also for the Damages done in carrying away the same, in such Manner as Satisfaction is or shall be required to be made for the Damages occasioned by digging, getting, or carrying away Materials in several inclosed Grounds, by Virtue of such Act or Acts. 13 Geo. III. c. 84. § 71.

C H A P. XVIII.

*Concerning Direction-Posts, Mile-Stones,
&c.*

SECTION I. **T**HE Trustees appointed to execute any Act Trustees to erect Direction-posts; of Parliament made for Repair of Turnpike Roads, shall, for the better Convenience of Travellers, direct their Surveyors, in every Place where several Highways meet (and no sufficient Direction-post is already erected), to erect a Stone or Post, with an Inscription thereon, in large Letters, containing the Name of, and Distance from the next Market Town or Towns, or other considerable Place or Places, to which such Highways respectively lead. 13 Geo. III. c. 84. § 41.

II. The said Trustees must also direct and Graduated-posts near Waters; their Surveyor, at all Approaches to, or Entrances on such Parts of any Highways as are subject to deep or dangerous Floods, to fix graduated Posts, denoting the Depth of Water at the deepest Part of the same, and likewise such Direction-posts or Stones as they shall judge to be necessary for guiding Travellers in the safest Track or Passage through such Floods

Floods or Waters *. 13 Geo. III. c. 84.
§ 41.

and Mile-
stones.

III. The said Trustees must likewise order their Surveyor to erect Mile-stones or Posts upon their respective Roads, with proper Inscriptions and Figures thereon, denoting the Names and Distances of the principal Towns or Places upon such Roads; and from Time to Time to repair such Direction or Graduated-posts and Mile-stones, or Posts, and continue legible the Inscriptions thereon. 13 Geo. III. c. 84. § 41.

Expence of
erecting them
to be paid out
of the Tolls.

IV. The said Surveyor is to be reimbursed the Expence of erecting and repairing, &c. the aforesaid Direction-posts, Graduated-posts and Mile-stones, &c. out of the Tolls granted by the respective Turnpike Act; and in case of his neglecting or refusing, for the Space of Three Months after Direction given him, to erect or repair such Posts or Stones, he shall forfeit the Sum of Twenty Shillings. 13 Geo. III. c. 84. § 41.

Surveyor ne-
glecting to erect
them when or-
dered, forfeits
20s.

Persons destroy-
ing them forfeits
from 5 l. to 10 s.
Vide Chap. XX.
§ 4.

V. Any Person who shall destroy or deface any Direction or Graduated-post, Mile-stone, &c. shall forfeit for such Offence, a Sum not exceeding Five Pounds, nor less than Ten Shillings †. 13 Geo. III. c. 84. § 39.

* Vide Remark.

† Vide Remark.

C H A P.

C H A P. XIX.

Regulations respecting marking of Carriages, &c.

SECTION I. **T**HE Owner of every Waggon, Wain, or Cart, and also of every Coach, Post Chaise, or other Carriage let to hire, shall paint, or cause to be painted, upon some conspicuous Part of his Waggon, Wain, or Cart, and upon the Pannels of the Doors of all such Coaches, Post Chaises, or other Carriages [let to hire as aforesaid], before the same shall be used on any Turnpike Road, his or her Christian and Surname, and Place of Abode, in large legible Letters, and continue the same thereupon so long as such Carriage shall be used upon any Turnpike Road. 13 Geo. III. c. 84. § 68.

Owner's Name and Place of Abode to be painted on Carriages ;

II. The Owner of every Common Stage Waggon, or Cart, employed in travelling Stages from Town to Town, shall, over and above his or her Christian and Surname, paint, or cause to be painted, on the Part and in the Manner aforesaid, the following Words, COMMON STAGE WAGGON, or CART (as the Case may be). 13 Geo. III. c. 84. § 68.

and the Words Common Stage Waggon or Cart on all such Waggon and Carts.

III. Every

Persons using
Carriages with-
out Names, &c.
or with false
ones, forfeit from
5l. to 20s.

III. Every Person using any such Carriage, as aforesaid, upon any Turnpike Road, without the Names and Descriptions painted thereon respectively, as aforesaid, or who shall paint, or cause to be painted, any false or fictitious Name or Place of Abode on such Waggon, Wain, Cart, Coach, Post Chaise, or other Carriage, shall forfeit, for every such Offence, a Sum not exceeding Five Pounds, nor less than Twenty Shillings*. 13 Geo. III. c. 84. § 68.

CHAP. XX.

Punishment of Offences.

Persons destroy-
ing Turnpike
Gates, &c. guilt-
y of Felony,
and punishable
with Transpor-
tation, or Three
Years Imprison-
ment.

SECTION I. **I**F any Person or Persons shall, by Day or Night, wilfully or maliciously pull down, or by any Means destroy any Turnpike Gate, or any Post, Rail, Wall, Chain, Bar, or other Fence or Fences, of any Kind whatever, belonging to any Turnpike Gate, or any other Chain, Bar, or Fence, of any Kind, erected, or hereafter to be erected, to prevent Passengers from passing by without paying any Toll directed to be paid by Act of Parliament; or any

* Vide Remark.

House or Houses erected, or to be erected for the Use of such Turnpike Gate; or any Crane, Machine, or other Engine erected, or to be erected, on any Turnpike Road for the Purpose of weighing Carriages; or shall forcibly rescue any Person or Persons, being lawfully in the Custody of any Officers, or other Person, for any of the Offences before mentioned; every such Person so offending, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and be transported for Seven Years, or be committed to Prison for any Time not exceeding Three Years, at the Discretion of the Judge or Court before whom such Offender is tried. And any Indictment for such Offences may be enquired of, examined, tried and determined, in any adjacent County within that Part of *Great Britain* called *England*, in such Manner and Form as if the Facts had been therein committed. 13 Geo. III. c. 84.

§ 42.

II. The Inhabitants of every Hundred within which such Offence as aforesaid, by destroying any Turnpike Gate, or any Post, Rail, or Wall, belonging thereto, or any Chain, Bar, Fence, or any Toll-house or Weighing Engine, erected by Authority of Parliament, as aforesaid, is committed, shall make full

Hundred to
make Satisfaction for Turn-
pike Gates de-
stroyed.

O

Satisf-

Satisfaction for the Damage thereby suffered, and the said Damage shall and may be recovered by Action of Debt, Bill, Plaint, or Information, in any of his Majesty's Courts of Record, by and in the Name of the Clerk of the Peace of the County for the Time being, wherein such Offence shall be committed, without naming the Christian or Surname of the Clerk of the Peace; and such Action shall not be abated or discontinued by the Death or Removal of any such Clerk, but may be sued for by his Successors*.

Inhabitants to
equally rated to
such Damages.

And all the Inhabitants of such Hundred shall be rateably and proportionably taxed for and towards an equal Contribution for the Relief of such Inhabitant or Inhabitants, against whom Execution for such Damages shall be had and levied, which Tax shall be raised and levied by such Means, and in such Manner, as is prescribed for the levying and raising the Damages recovered against Inhabitants of Hundreds, in case of Robberies, by any Act or Acts of Parliament: Provided, that on Conviction of the Offender, within Twelve Months after Commission of the Offence, such Hundred, or the Inhabitants thereof, liable to make, and having made such Satisfaction, shall be repaid the Sums they have so paid,

Damages recovered of the
Hundred to be
repaid on Conviction of the
Offender within
a Year.

* Vide Remark.

out

out of the Tolls of the Turnpike where such Offence was committed.

The said Damages so to be recovered shall be for the sole Use and Behoof of the Trustees of the Road where the Offence shall be committed, to be by them applied to the same Purposes, and in the same Manner as the Tolls of the said Road are applied and disposed of, by Virtue of the particular Act of Parliament relative thereunto. 13 Geo. III. c. 84.

Damages recovered to be applied to the Use of the Road.

§ 43.

III. If any Person shall incroach by making, or causing to be made, any Hedge, Ditch; or other Fence, on any Turnpike Road, within the Distance of Thirty Feet from the Middle or Centre thereof; or if any Person shall plough, harrow, or break up the Soil of any Land or Ground; or in ploughing the adjacent Lands, shall turn his Plough or Harrow upon any Ground within the Distance of Fifteen Feet from the Middle or Centre of any Turnpike Road made or to be made; every such Person shall forfeit, for every such Offence, Forty Shillings, to such Person as shall make Information of the same; and the said Forfeiture of Forty Shillings, on Proof of the Offence made on Oath before one or more Justice or Justices of the Limit where it is committed, may be levied by

Incroachments on Turnpike Roads, Penalty for making them 40s.

Distress and Sale of the Offender's Goods and Chattels, rendering the Overplus to the Owner on Demand.

Incroachments may be removed at Expence of the Person making them.

The Trustees of such Road, or any Five of them, may cause such Hedge, Ditch, or Fence, to be taken down or pulled up at the Expence of the Person or Persons to whom the same shall belong, and one or more Justice or Justices of the Limit where the Offence is committed, upon Proof thereof made to him or them on Oath, may levy the Expence of taking down such Hedges or Fences, and filling up such Ditches as aforesaid, by Distress and Sale of the Offenders Goods and Chattels, rendering the Overplus to the Owner on Demand.

13 Geo. III. c. 84. § 38.

Persons damaging Causeways, Bridges, Direction-posts, or Mile-stones, forfeit from 5l. to 10s.

IV. If any Person shall pull up, cut down, or damage any Post, Block, or great Stone, fixed for the Security of Horse or Foot Causeways; or drive any Carriage upon or against such Horse or Foot Causeways, or cut or dig down the same; or break, damage, or throw down any Stones, Bricks, or Wood, fixed on the Parapets or Battlements of Bridges; or pull down, destroy, obliterate, or deface any Mile-stone or Post, graduated or Direction-post or Stone, erected, or to be erected, on any Turnpike Road; such Person so offending, on Complaint made

to any Justice of the Limit where the Offence shall be proved to be done, on Oath of one Witness, or View of the Justice himself, shall forfeit, for any or every of the said Offences, any Sum not exceeding Five Pounds, nor less than Ten Shillings; and in Default of Payment, shall be committed to the House of Correction of the Limit, there to be whipped and kept to hard Labour, for any Time not exceeding One Calendar Month, nor less than Seven Days, at Discretion of the Justice, unless the Forfeiture be sooner paid. 13 Geo. III. c. 84. § 39.

and in Default of Payment may be imprisoned from One Month to Seven Days.

V. If the Driver of any Cart, Car, Dray, or Waggon, shall ride upon any such Carriage in any Street or Highway, not having some Person on foot or horseback to guide the same (such Carriages as are conducted by some Person holding the Reins of the Horse or Horses drawing the same excepted);—*or* if the Driver of any Carriage whatsoever, on any Part of the Street or Highway, shall, by Negligence or wilful Misbehaviour, cause any Hurt or Damage to any Person or Carriage passing, or being thereon;—*or* shall quit the Highway, and go on the other Side of the Hedge or Fence inclosing it;—*or* shall wilfully be at such a Distance from his Carriage, or in such a Situation that he cannot have the Direction or Go-

Driver riding on his Carriage;

or causing Mischief, by Negligence, or Misbehaviour;

or quitting the Highway, and going on the other Side of the Hedge;

or being wilfully at a Distance from his Carriage;

vernment of the Horses drawing the
 same ;—*or* shall, by Negligence or will
 ful Misbehaviour, prevent, hinder, or in-
 terrupt the free Passages of any other
 Carriage, or of his Majesty's Subjects on
 the said Highways ;—*or* if the Driver of
 any empty Waggon, Cart, or other
 Carriage, shall refuse to turn aside and
 make Way for any Coach, Chariot,
 Chaise, loaded Waggon, Cart, or other
 loaded Carriage ;—*or* if any Person shall
 drive, or act as the Driver of any Coach,
 Post Chaise, or other Carriage let to
 Hire ; or any Waggon, Wain, or Cart,
 not having the Owner's Name, &c. as
 before directed, painted thereon ; or shall
 refuse to discover the Christian and Sur-
 name of the Owner of such respective
 Carriage ; every such Driver offending in
 any of the Cases aforesaid, and being con-
 victed of any such Offence, by Confession,
 View of a Justice, or Oath of one cre-
 dible Witness before any Justice of the
 Limit where such Offence shall be com-
 mitted, shall, for every such Offence,
 forfeit any Sum not exceeding Ten Shil-
 lings, in case such Driver shall not be
 Owner of the Carriage, and in case he is
 Owner thereof, a Sum not exceeding
 Twenty Shillings ; and in either Case
 shall, in Default of Payment, be com-
 mitted to the House of Correction for
 any

or hindering the
 Passage of other
 Carriages, or of
 any Person ;

or refusing to
 turn out with an
 empty Carriage
 for a loaded one ;

or driving an
 unmarked Car-
 riage ;

or refusing to tell
 the Name of the
 Owner of such
 Carriage,
 forfeits, in all
 these Cases, if
 Owner, 20s. if
 not Owner, only
 10s. and in ei-
 ther Case, in De-
 fault of Pay-
 ment, liable to a
 Month's Impri-
 sonment.

Time not exceeding One Month, unless the Forfeiture be sooner paid.

And every such Driver offending in either * [any] of the said Cases may, by Authority of this Act, with or without a Warrant, be apprehended by any Person who shall see the Offence committed, and must be immediately conveyed or delivered to a Constable or other Peace Officer, in order to be carried before a Justice.

Such Driver may be apprehended by any Person without a Warrant.

And if such Driver, in any of the Cases aforesaid, shall refuse to discover his Name, the Justice before whom he is taken, or to whom the Complaint is made, may commit him to the House of Correction for any Time not exceeding Three Months, or may proceed against him for Recovery of the Penalty aforesaid, by a Description of his Person and of the Offence, and expressing in the Proceedings, that he refused to discover his Name †. 13 Geo. III. c. 84. § 40.

Offender refusing to tell his Name, may be committed for Three Months, or otherwise proceeded against by Description of his Person.

VI. If any Person shall resist, or forcibly oppose any Person or Persons employed in the Execution of this Act, or of any particular Turnpike Act; or shall assault any Collector of the Tolls in the Execution of his Office;—or shall pass through any Turnpike Gate, &c. erected

Persons opposing the Execution of the Act, or assaulting Collectors;

or passing Turnpike without paying Toll;

* *Either* is the Word in the Act, it should surely have been *any*.

† Vide Remark.

or making Rescue of Goods distrained, forfeit from 10l. to 40s.

Constables, &c. refusing to execute any Justice's Warrant, forfeit from 10l. to 40s.

by Act of Parliament, without paying the Toll appointed to be paid thereat;—*or* shall hinder, or attempt to prevent or obstruct any Person in measuring the Wheels of any Carriage;—*or* shall make Rescue of any Cattle, or other Goods distrained by Virtue of this Act;—*or* if any Constable, Headborough or Tythingman, shall refuse or neglect to execute any Justice's Warrant, granted pursuant to Directions of this Act; every Person so offending, and being convicted of the Offence in the Manner directed by this Act, shall, for every Offence, forfeit a Sum not exceeding Ten Pounds, nor less than Forty Shillings, at Discretion of the Justice or Justices before whom he is convicted.

In Default of Payment, the Offender liable to Imprisonment for Three Months.

In Default of immediate Payment, or giving Security for Payment of such Forfeiture, the Justice or Justices before whom the Offender is convicted, may commit him to the House of Correction for the County, Division, or Place where the Offence was committed, for any Time not exceeding Three Months, unless the Forfeiture be sooner paid.

Forfeiture to go to the Use of the Road.

The Forfeiture aforesaid is to be paid to the Surveyor of the Turnpike Road where the Offence shall be committed, and shall be laid out in the Repair thereof.

13 Geo. III. c. 84. § 75,

VII. Any

VII. Any Constable, Headborough, or Tythingman, refusing or neglecting to put this Act in Execution, or to account for and deliver any Forfeiture or Penalty, according to Direction of this Act, upon due Information made on Oath before one Justice of the Limit, shall forfeit the Sum of Ten Pounds.

Constables, &c., refusing to execute the Act, &c. forfeit 10l.

All Surveyors, and Toll-gatherers, and all other Persons employed by the Trustees of Turnpike Roads, and receiving Salaries or Rewards from such Trustees, wilfully neglecting to lay Information of Offence against this Act, for the Space of One Week after Commission of any such Offence, before one or more Justice or Justices of the Limit where the said Offence is committed, shall, upon due Information, made on Oath before one Justice, forfeit, for every such Neglect, the Sum of Ten Pounds *. 13 Geo. III. c. 84. § 73.

Surveyors and Gate-keepers neglecting to prosecute Offenders forfeit 10l.

VIII. No Conviction is to be made by Virtue of this Act, unless upon Confession of the Party accused, or upon Oath of one or more credible Witness or Witnesses.

Mode of Conviction.

Any Inhabitant of any Parish, Township, or Place, in which any Offence against the Directions of this Act is com-

Inhabitant, a competent Witness.

* Vide Remark.

mitted,

mitted, shall be deemed a competent Witness notwithstanding his Inhabitation.

Any Justice of the Peace may act as such in the Execution of this Act, notwithstanding he may be a Creditor or Trustee of the Road on which any Offence contrary to this Act shall be committed. 13 Geo. III. c. 84. § 74.

C H A P. XXI.

Recovery of Forfeitures.

Penalties and Forfeitures to be levied by Distress and Sale of the Offender's Goods,

SECTION I. **A**LL Penalties and Forfeitures incurred by this Act for any Offence against the same, and all Costs and Charges to be allowed and ordered by Authority thereof (the Means of levying and recovering which is not hereby otherwise directed), shall be levied by Distress and Sale of the Goods and Chattels of the Offenders, or Person liable or ordered to pay the same, by Warrant under the Hand and Seal of some Justice of the Limit where the Offence, Neglect, or Default shall happen, *and such Order for Payment of such Costs and Charges shall be made* *, rendering

* Vide Remark on Sect. 2. of this Chapter.

the

the Overplus of such Distress and Sale to the Party, after deducting the Charges of making the same ; which Warrant such Justice is hereby impowered and required to grant upon Conviction of the Offender, by Confession, or on Oath of one or more credible Witness or Witnesses, upon Order made as aforesaid. 13 Geo. III. c. 84. § 76.

II. But no Warrant of Distress, unless otherwise directed by this Act, shall be issued for levying any Penalty or Forfeiture, Costs or Charges, until Six Days after the Offender shall have been convicted, and an Order made and served upon him or her for Payment thereof *.

No Warrant of Distress to be granted till Six Days after Conviction and Order of Payment.

13 Geo. III. c. 84. § 77.

III. The Penalties, Forfeitures, Costs and Charges, so levied, as aforesaid, shall be paid one Half to the Informer, and the other Half to the Surveyor of the Turnpike Road where the Offence, &c. shall happen ; to be employed towards the Repair thereof, unless otherwise directed by this Act. 13 Geo. III. c. 84. § 76.

Forfeitures to be paid, Half to the Informer, and Half to the Surveyor of the Road ;

But whatever Penalties or Forfeitures shall be levied or recovered, on Information of the Surveyor, Toll-gatherer, or other Person employed by the Trustees of Turnpike Roads, and receiving Salaries or Rewards for their Services, except

except such as are levied on Information of Toll-gatherers or Surveyors, &c. all which are to be applied to the Use of the Road.

* Vide Remark.

otherwise

otherwise directed by this Act, shall be applied to amending such Roads respectively, and to no other Purpose whatever, any Thing in this, or any other Act, to the contrary, notwithstanding. 13 Geo. III. c. 84. § 78.

When Distress cannot be found, the Offender is to be committed for any Time not exceeding Three Months.

IV. In case Distress cannot be found, and the Forfeiture or Penalty, and Costs and Charges, be not forthwith paid, the Justice is authorised and required to commit the Offender to the House of Correction, or common Goal of the Limit where the Offence is committed, or the Order as aforesaid is made, for any Time not exceeding Three Months, unless the said Penalty or Forfeiture, Costs and Charges, shall be sooner paid. 13 Geo. III. c. 84. § 76.

If the Offender lives out of the Jurisdiction of the Justice by whom he is convicted, any Justice of the Limit where he inhabits may proceed to recover the Forfeiture by Distress.

V. If the Offender lives out of the Jurisdiction of the Justice hereby authorised to grant such Warrant of Distress as aforesaid, any Justice of the Limit, where such Offender shall inhabit (upon Request made to him for that Purpose, and upon a true Copy of the Conviction by which the Forfeiture was incurred, or of the Order for Payment of Costs, produced and proved on Oath by one Witness), may, and is required, by Warrant under his Hand and Seal, to cause the Forfeiture mentioned in the Conviction, and the Costs mentioned in the Order, to be levied

levied by Distress and Sale of the Goods and Chattels of the Offender; and if no Distress can be had, to commit the said Offender to the common Gaol, or House of Correction, of the Limit, for the Time and in Manner aforesaid. 13 Geo. III. c. 84. § 76.

VI. Distress made by Virtue of this Act shall not be deemed unlawful, nor the Party making it, a Trespasser, on Account of any Default, or Want of Form, in any Proceeding relating thereto; nor shall the Party distraining be deemed a Trespasser *ab initio*, on account of any Irregularity which shall be afterwards done by such Party: But the Persons aggrieved by such Irregularity may recover full Satisfaction for the Special Damage in an Action on the Case. 13 Geo. III. c. 84. § 80.

Distress not to be deemed unlawful for any Irregularity in the Mode of making it;

but the Party aggrieved may recover Satisfaction for special Damage on an Action;

But no Plaintiff shall recover, in any Action for such Irregularity, Trespass, or wrongful Proceedings, if Tender of sufficient Amends be made by or on Behalf of the Party committing the same before such Action brought; and in case no such Tender shall have been made, the Defendant in such Action, by Leave of the Court where such Action shall depend, at any Time before Issue joined, may pay into Court such Sum of Money as he shall see fit; whereupon such

except Tender of Amends shall be made by the Party committing such Irregularity.

such Proceedings, or Orders and Judgments, shall be had, made, or given by such Court as in other Actions where the Defendant is allowed to pay Money into Court. 13 Geo. III. c. 84. § 81.

Informations for Penalties to favour the Offender, are deemed fraudulent and void.

VII. To render ineffectual colourable Prosecutions, set up by the Friends of Offenders with Design to favour them, and to discourage just and real Prosecutions, and to evade the Recovery of Forfeitures and Penalties, when any Information or Conviction shall be set up or insisted on by Way of Defence, or to defeat any Information or Proceeding, or any Penalty or Forfeiture, all Justices of the Peace before whom such fictitious Information or Conviction may be set up, are required to examine into the real merits thereof: and if it shall appear that the same was not made effectually, to recover and apply the Penalty or Forfeiture for the real Purpose for which such Penalties and Forfeitures were enacted, but to favour the Offender, the said Information or Conviction, shall be deemed fraudulent, and null and void to all Intents and Purposes whatever; and such Justice shall proceed to determine and convict as if no such Information had been made, prosecuted or obtained. 13 Geo. III. c. 84. § 48.

VIII. When any Oath is required or directed to be taken by this Act, the Justices of any Limit, or the Trustees of any Turnpike Road (as the Case may be), according to the several Jurisdictions therein given to them respectively as aforesaid, shall and are respectively empowered to administer the same. 13 Geo. III. c. 84. § 84.

Justices or Trustees may administer an Oath where necessary:

IX. The Forms of Proceedings relative to the several Matters contained in this Act, which are set forth and expressed in the Schedule hereunto annexed, shall be used upon all Occasions, with such Additions or Variations only as may be necessary to adapt them to the particular Exigences of the Case; and no Objection shall be made, or Advantage taken, for Want of Form, in any such Proceedings, by any Person or Persons whomsoever. 13 Geo. III. c. 84. § 72.

Form of Proceedings directed in the Schedule to be used.

X. Any Penalty or Forfeiture imposed by this Act, or any particular Turnpike Act, if not amounting to the Sum of Forty Shillings, is recoverable only by Information before a Justice of the Peace.

Penalty under 40s. recoverable only by Information before a Justice.

But any Penalty amounting to Forty Shillings, or upwards, may be recovered either by Information as aforesaid, or by Action of Debt in any of his Majesty's Courts of Record, in which it shall be sufficient to declare that the Defendant

Penalty above 40s. recoverable either by Information or Action.

is

is indebted to the Plaintiff in the Sum of
 ——— being forfeited by an Act
 passed in the Thirteenth Year of his pre-
 sent Majesty, intituled, "An Act to ex-
 " plain, amend, and reduce into one Act
 " of Parliament, the general Laws now
 " in being for regulating the Turnpike
 " Roads in that Part of *Great Britain*
 " called *England*, and for other Pur-
 " poses." And the Plaintiff, if he re-
 cover in such Action, shall have full
 Costs: Provided that there shall not be
 more than One Recovery for the same
 Offence; and that Ten Days Notice in
 Writing be given to the Party offending,
 previous to the Commencement of such
 Action, and that the same be brought
 within One Calendar Month after the
 Offence for which it is brought shall have
 been committed. 13 Geo. III. c. 84.
 § 79.

Ten Days No-
 tice of Action to
 be given.

Action to be
 brought within
 the Month.

C H A P. XXII.

Appeal to Quarter Sessions.

Persons aggriev-
 ed by any Thing
 done by any Jus-
 tice in pursuance
 of this Act may
 appeal to the
 Quarter Sessions.

IF any Person shall think himself
 aggrieved by any Thing done by any
 Justice or Justices in pursuance of this
 Act, except under the particular Cir-
 cumstances

cumstances herein after mentioned, and for which no particular Method of Relief hath been already appointed, such Person may appeal to the Justices of the Peace at any General Quarter Sessions to be held for the Limit wherein the Cause of Complaint shall arise.

But such Appellant must first give, or cause to be given, to the Justice by whose Act or Acts he shall think himself aggrieved, Notice in Writing of his Intention to bring such Appeal, and of the Matter thereof, within Six Days after the Cause of Complaint shall arise; and, within Four Days after such Notice, enter into a Recognizance before some Justice, with one sufficient Security, to try such Appeal at the said Sessions, and to abide the Order thereof, and pay the Costs awarded thereby.

giving Six Days Notice to such Justice;

and entering into a Recognizance to try the Appeal.

The Justice receiving such Notice of Appeal, as aforesaid, must return all Proceedings whatever had before him, respectively, touching the Matter of such Appeal, to the said Quarter Sessions, on pain of forfeiting, for every Neglect, Five Pounds.

Justice, receiving such Notice, must return all Proceedings under Penalty of 5*l*.

The Justices, at such Sessions, upon due Proof of such Notice having been given as aforesaid, and of the entering into such Recognizance, must hear and determine the Causes and Matters of such

Sessions to determine in a summary Way;

P

Appeal

Appeal in a summary Way, and award such Costs to the Parties appealing or appealed against, as they the said Justices shall think proper; the said Costs to be levied and recovered as herein before directed.

and their Determination to be final,

The Determination of such Quarter Sessions shall be final and conclusive to all Intents and Purposes; and no Proceeding to be had or taken in Pursuance of this Act, shall be quashed or vacated for want of Form, or removed by *Certiorari*, or any other Writ or Process, into any of his Majesty's Courts of Record at Westminster, any Law or Statute to the contrary notwithstanding. 13 Geo. III. c. 84. § 82.

But no Appeal shall be made against any Conviction for any Penalty or Forfeiture incurred by virtue of this Act, unless the Party convicted shall, at the Time of Conviction, if present, or else within Six Days after, give, or cause to be given, Notice of his Intention to appeal; and, at the same Time, enter into Recognizance, or give Security, with sufficient Sureties, to pay such Penalty or Forfeiture, in case the Conviction be affirmed upon such Appeal; and, upon his giving such Security, the further Proceedings for such Penalty, &c. shall be suspended

suspended till the Appeal be heard and determined. 13 Geo. III. c. 84. § 83.

C H A P. XXIII.

Actions, Limitation of Actions, &c.

SECTION I. **I**N all Cases where any Action shall be brought by or against any Trustee or Trustees of any Turnpike Road, Evidence of such Trustee or Trustees having acted as such, together with the Act of Parliament by which he or they was or were appointed, or the Order, or a Copy of the Order, for his or their Appointment, or Election, in case he or they were appointed or elected by the Trustees, shall be sufficient Proof of his or their being a Trustee or Trustees. 13 Geo. III. c. 84. § 64.

If Action be brought against a Trustee, Evidence of his being appointed and acting as such, is sufficient to prove him a Trustee.

II. No Action or Suit shall be commenced against any Person or Persons for any Thing done or acted in Pursuance of this Act, unless such Action or Suit shall be commenced or prosecuted within Three Calendar Months after the Fact is committed.

No Action to be brought but within Three Months after Commission of the Fact;

Every such Action or Suit must be brought in the County where the Person against whom it is commenced doth or

and in the County where the Person, against whom it is commenced, shall reside; or where the Fact was committed.

dinarily inhabit or reside, or where the Fact was committed, and not elsewhere.

Defendant may plead the General Issue, and give the Act and Special Matter in Evidence.

The Defendant in such Action or Suit may plead the General Issue, and give this Act, and the Special Matter, in Evidence, at any Trial to be had thereupon, and that the same was done in Pursuance and by Authority of this Act : And if the same shall appear to have been so done, or if any such Action or Suit shall be brought after the Time limited for bringing the same, or shall be brought and laid in any other County than as aforesaid, then the Jury shall find for the Defendant or Defendants ; or if the Plaintiff or Plaintiffs shall become nonsuit, or discontinue the Action after the Defendant or Defendants have appeared ; or if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant shall and may recover Treble Costs, and have the like Remedy for Recovery thereof as any Defendant or Defendants hath or have in any Cases by Law. 13 Geo. III. c. 84. § 85.

If the Plaintiff proceeds in any other Manner, the Jury are to find for the Defendant, and he is to have treble Costs.

C H A P. XXIV.

Repeal of Act of 7th George III.

THIS Act repeals an Act passed in the Seventh Year of his present Majesty's Reign, intituled, "An Act to explain, amend, and reduce into one Act of Parliament, the General Laws now in being for regulating the Turnpike Roads of this Kingdom, and for other Purposes therein mentioned," except so much thereof as repeals the several Acts therein mentioned. This Act commences and takes Effect from September 29th, 1773. 13 Geo. III. c. 84. § 86.

C H A P. XXV.

Continuation of Particular Turnpike Acts passed in or before 28th of Geo. II.

ALL particular Acts of Parliament, made for the Purpose of repairing and amending Turnpike Roads in or before the 28th Year of Geo. II. shall be continued for *Five Years*, to be computed from the Expiration of every such Act, subject to the Tolls, Duties, Penal-

ties, Forfeitures, Remedies, Powers, Authorities, Clauses, Rules, Directions, Payments, and Provisions by such respectively made and enacted.

And all Persons who have received, or shall receive Tolls, or have acted, or shall hereafter act, under Authority and in Execution of any of the Powers of any such Act so continued, are indemnified for what they have so received or done, or shall so receive or do. 14 Geo. III. c. 31.

A T A B L E of P E N A L T I E S.

FORFEITURES. DIGEST. ACT.		
	C.	§. §.
Clerks of Turnpikes refusing or neglecting to deliver up Books, Papers, &c.	20 l.	I. 5. — 45
Constables refusing or neglect- ing to put the Act in Exe- cution, &c.	10 l.	XX. 7. — 73
—refusing to execute War- rants,	10 l. to 40 s.	XX. 6. — 75
Drivers refusing to return to Weighing Engines,	40 s.	II. 4. — 4
—unloading Goods to evade the Weighing Engines, not being Owner of the Car- riage,	A Month's Im- prisonment.	II. 7. — 10
—turning out of the Road to avoid the Weighing En- gine,	If Owner, 5 l. to 20 s. if not, 50 s. to 10 s.	II. 8. — 11
—unloading Goods to avoid paying Toll, not being owner of the Carriage,	A Month's Im- prisonment.	IV. 14. — 10
—turning out of the Road to avoid paying Toll,	If Owner, 5 l. to 20 s. if not, 50 s. to 10 s.	IV. 15. — 11
—driving with supernumera- ry Horses,	5 l. to 10 s.	III. 7. — 21
—ditto, not being Owner,	20 s.	III. 5. — 13
—driving Carriages upon or against Horse or Foot Paths,	5 l. to 10 s.; in Default of Pay- ment, Imprison- ment One Month to Seven Days.	XX. 4. — 39
—driving Carriages not mark- ed with the Owner's Name,	5 l. to 10 s.	III. 7. — 21

Drivers riding on their Carriages,

—Damaging any Carriage or Person by Misbehaviour,
—quitting the Highway, and going on the other Side of the Hedge,

—by Negligence or Misbehaviour hindering the Passage of any Carriage or Person,

—wilfully being at a Distance from their Carriages,

—driving an empty Carriage, and refusing to turn out for a loaded one, or for a Coach, Chaise, &c.

—driving a Carriage without the Owner's Name and Place of Abode,

—refusing to discover the Name of the Owner of such Carriage,

If Owner, 20 s.
if not, 10 s.; in
Default of Pay-
ment, a Month's
Imprisonment.

XX. 5. — 40

Farmer of Tolls taking illegal Toll,

5 l. and his Con-
tract, if the
Trustees think
proper.

VII. 2. — 31

Gate-keepers taking illegal Toll,

40 s.

X. 9. — 31

—not accounting on Oath for Monies received, if required,

5 l.

X. 4. — 55

—neglecting to prosecute for supernumerary Horses, unmarked Carriages, &c.

40 s.

III. 9. — 57

—Permitting Carriages to pass unweighed,

5 l.

II. 3. — 2

—neglecting to prosecute Offenders against the Act,

10 l.

X. 11. — 73

Gate-

FORFEITURES. DIGEST. ACT.
C. §. §.

Gate-keepers not delivering up Books, Papers, Ac- counts, &c.	} 20 l.	X. 12. — 45
Justice neglecting to return Proceedings in case of Ap- peal,	} 5 l.	XX. — — 82
Mortgagees refusing to ac- count to the Trustees,	} 10 l.	VIII. 1. — 52
—keeping illegal Possession of the Tolls,	{ Double the Sum received above his Debt, with Treble Costs. }	VIII. 2. — 53
Owners of Carriages, for using supernumerary Horses,	} 5 l.	III. 5. — 13
—for Persons unloading Goods from their Carriages to evade the Weighing Engine,	} 5 l.	II. 7. — 10
—for Persons unloading Goods from their Carriages to avoid paying Toll,	} 5 l.	IV. 14. — 10
Persons using unmarked Car- riages,	} 5 l. to 20 s.	XIX. 3. — 68
—taking off Horses to avoid Tolls or Penalties,	} 5 l.	III. 8. — 17
—taking Benefit of Exemp- tions in a fraudulent Man- ner,	} 5 l. to 40 s.	IV. 12. — 28
—making Encroachments on Roads,	{ 40 s. and the Expences of re- moving them. }	XX. 3. — 38
—ploughing within 15 Feet of the Centre of Roads,	} 40 s.	XX. 3. — 38
—destroying or damaging Di- rection Posts, Mile-Stones,	{ 5 l. to 10 s. de- fault of Pay- ment, Imprison- ment a Month to Seven Days. }	XX. 4. — 39
—assaulting Gate-keepers, or passing without paying Toll,	} 10 l. to 40 s.	X. 13. — 75
—destroying Turnpikes,	{ Transportation, or Three Years Imprisonment. }	XX. 1. — 42

Persons

FORFEITURES.		DIGEST. ACT.	
		C.	§. §.
Persons opposing any Person in Execution of the Act, or making Rescue of Goods distrained,	10 l. to 40 s.	XX.	6. — 75
Surveyors having Share in Contracts,	10 l. and Incapacitation for the Office.	XI.	2. — 36
—selling Materials, or letting Teams,	Ditto.	XI.	3. — 36
—suffering Obstructions on the Road,	40 s.	XI.	5. — 37
—refusing to account,	5 l.	XI.	6. — 55
—not delivering up Books, Papers, &c.	20 l.	XI.	8. — 45
—misapplying Statute-Duty,	20 s.	XII.	1. — 32
—neglecting to erect Guide-posts, &c. when ordered by Trustees,	20 s.	XVIII.	4. — 41
—neglecting to prosecute Offenders against the Act for a Week,	10 l.	XX.	7. — 73
Trustees acting without Qualification,	50 l.	I.	2. — 44
Treasurer refusing to deliver up Books, Papers, &c.	20 l.	I.	5. — 45

The Resolutions of the House of Commons, of which the following is an Abstract, were some Time ago printed, and sent, by Order of the House, to the Sheriffs and Clerks of the Peace of the several Counties. As the Matter contained in them is necessary to be known to all Persons intending to apply for New Turnpike Acts, or the Renewal of Old Ones, it was thought not improper to make them more public by this Mode of Re-printing.

Abstract of the Resolutions of the House of Commons, respecting Rules and Directions to be observed previous to Application for Acts of Parliament for making New Turnpike Roads, or for the Renewal of Acts relative to Old ones.

I. **B**EFORE any Petition is presented to the the House for making a Turnpike Road, or for the Renewal or Alteration of any Act of Parliament passed for that Purpose, Notice of such intended Application to Parliament must be given at the General Quarter Sessions of the Peace which shall be held for every County or District through which such Road passes, or is intended to pass, at the *Michaelmas* immediately preceding the Session of Parliament in which such Petition is to be presented. *Resolution 3.*

II. The Notice aforesaid must be given by affixing, to the Door of the Sessions-house where such General Quarter Sessions are held, a printed or written Paper, describing the Parishes through which the said Road passes, or is intended to pass; and such Notice must also be printed in some one News-paper of the County; or if there is no such Paper printed for that County, then in the News-paper of some near or adjoining County, Three
+ Times

Times at least in the Months of *August* and *September*, or either of them, immediately preceding the Session of Parliament in which such Petition is to be presented. *Resolution 4.*

III. When any Petition is presented to Parliament for making a New Turnpike Road, or for raising any further Sum of Money for that Purpose, there must be annexed to the said Petition an Estimate of the proposed Expence of such Undertaking, signed by the Person or Persons making the same, together with an Account of the Money subscribed for carrying the said Work into Execution, and the Names of the Subscribers, with the Sums respectively subscribed by them. *Resolution 6.*

IV. In all Bills for making New Turnpike Roads, there must be inserted a Clause compelling the Subscribers for carrying the Work into Execution to make Payment of the Sums severally subscribed by them *. *Resolution 7.*

V. When any Petition for any Turnpike Road, or renewing or altering any Act of Parliament passed for that Purpose, hath been presented to the House, the Committee to whom the Petition shall be referred, or, in case the said Petition shall not be referred to a Committee, then the Committee to whom the Bill for such Purpose shall be committed, must examine, in the first Place, how far the Orders contained in the above Resolutions have been complied with; and the Chairman must report the same to the House on the Report of such Petition or Bill. *Resolution 9.*

* This Resolution seems rather unnecessary. The General Turnpike Act, 13 Geo. III. c. 84. § 35. has an ample Provision for the Purpose in Question. Vide the preceding Digest, Chap. XV.

T H E
S C H E D U L E

R E F E R R E D T O,

Containing the Form of PROCEEDINGS.

No. I.

Order of Trustees for erecting a Weighing Engine.

*At a Meeting of the Trustees of the Turnpike Roads,
under an Act, passed in the Thirteenth Year of the
Reign of his Majesty King George the Third for
[state the principal Part of the Title of the Act]
held at the Day of 17*

IN pursuance of the Powers given to us by an Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, for regulating the Turnpike Roads, we do hereby order, That an Engine, proper for the weighing of Carriages, of the Constructions and Weights specified in the said Act, be forthwith erected at or as near as conveniently may be to the Toll Gate or Bar now erected upon the said Turnpike Road at and that *A. B.* the (*Treasurer*), *Clerk*), or *Surveyor*), of the said Turnpike Road do contract with some proper Person (*or with C. D.*) (*in case the Trustees shall think fit to name the Person*), for the making and erecting such Engine, and do inspect and take Care that the same is properly done: And we do order the Gate-keeper at the said Gate or Bar, for the Time being, to attend the said Weigh-
ing

ing Engine, and carefully to weigh all Carriages passing, loaded upon the said Road, at the Place where such Engine shall be erected, together with the Loading thereof, and to take the several additional Tolls or Rates for Overweight, and give Tickets of the Weight of such Carriages and Loading, when required by the Driver thereof, according to the Directions of the said Act; and also to enter into a separate Book, to be kept by him for that Purpose, an Account of every Carriage so weighed, which shall, with the Loading, exceed the Weights allowed by the said Act, and account to us for the Money received for all such Overweight.

(To be signed by Five at least of the Trustees.)

No. II.

TABLE of Weights allowed in Winter and Summer to Carriages directed to be weighed, including the Carriage and Loading, by the Act of the Thirteenth George the Third.

	Summer. Winter.	
	T. Cwt.	T. Cwt.
To every Waggon upon Rollers, of the Breadth of Sixteen Inches,	8 —	7 —
To every Waggon with Nine-inch Wheels, rolling a Surface of Sixteen Inches on each Side, - -	6 10	6 —
To every Waggon with Nine-inch Wheels, - - - - -	6 —	5 10
To every Cart with Nine-inch Wheels,	3 —	2 15
To every Waggon with Six-inch Wheels, - - - - -	4 5	3 15
To every Waggon with Six-inch Wheels, rolling a Surface of Eleven Inches, - - - - -	5 10	5 —
To every Cart with Six-inch Wheels,	2 12	2 7
To every Waggon with Wheels of less Breadth than Six Inches, -	3 10	3 —
To every Cart with Wheels of less Breadth than Six Inches, - -	1 10	1 7

Agreement

No. III.

Agreement between Trustees of different
Turnpike Roads, for erecting One Weigh-
ing Engine for the Use of such Roads.

*At a Meeting of the Trustees of the Turnpike Roads,
under an Act, passed in the Year of the
Reign of King George the for [state the
principal Part of the Title of the Act], and also
of the Trustees of the Turnpike Roads, under an Act,
passed in the Year of the Reign of King
George the for &c. (as above) held
at the Day of 17
for the Purpose of agreeing upon and ordering a
Weighing Engine, at the joint Expence of the Trus-
tees, for the Use of the said several Turnpike Roads,
pursuant to the Powers given by an Act, passed in
the Thirteenth Year of the Reign of his Majesty
King George the Third, for regulating the Turn-
pike Roads.*

IT appearing to us, That a Weighing Engine
may be erected at (describing the
Spot where it can be most conveniently placed), which
will accommodate both the said Turnpike Roads,
according to the true Intent and Meaning of the
said Act; we do therefore order, etc. (as in the
Form above mentioned); and we do hereby agree and
order, That the Expences of making and erecting
the said Weighing Engine, and the Sum of

which we do hereby agree and order,
shall be paid to the Toll-gatherer attending the said
Toll-gate for the Time being, weekly, for his ex-
traordinary Trouble in attending the said Weigh-
ing Engine, shall be advanced and paid by the
Treasurers of the said several Turnpike Roads, in
the Shares and Proportions following; *videlicet*,
That the Treasurer of the Road
shall pay (One Half) Two Thirds, or Three
Fourths),

Fourths), Parts thereof, (as the Trustees shall agree), and the Treasurer of the Road shall pay the remaining (*One Half*), *One Third*), or (*One Fourth*), Part thereof; and that the Money to be received at the said Weighing Engine, by Forfeitures for Overweight, shall be paid to the said respective Treasurers, in the like Proportions, and applied by them for the Use of the said respective Turnpike Roads.

No. IV.

Complaint to the Court of Quarter Sessions of a Turnpike Road being damaged by excessive Weights, and that there is no Weighing Engine upon it.

To the Justices at the General Quarter Sessions of the Peace for the (County) Riding) Division) of

WE, whose Names are subscribed, being (*Creditors, or Trustees*) under an Act, passed in the Year of the Reign of King George the for, &c. [*state the principal Part of the Title of the Act*], do hereby complain to the Justices at the said Court, that a Part of the said Turnpike Road, lying between and is much damaged by the Carriage of excessive Weights thereupon, and that the Trustees of the said Turnpike Road have hitherto neglected to erect, or order any Weighing Engine to be erected, upon the said Road, pursuant to the Powers given to them by the Act, passed in the Thirteenth Year of the Reign of King George the Third, *for regulating the Turnpike Roads*; and we apprehend, that if a Weighing Engine was to be erected upon the said Road, pursuant to the said Act, at or near the Toll-gate at (or known by the Name of the Gate), it would contribute greatly to the Preservation of the said Road.

Signed this

Day of

17

(If

(If a Justice of Peace makes the Complaint, the Form will be as under) ;

Middlesex. I A. B. One of his Majesty's Justices of Peace for the said County, do hereby complain, &c. (as above).

No. V.

Notice of a Meeting of Trustees, for ordering a Side-Gate to be erected.

NOTICE is hereby given, That the Trustees of the Turnpike Roads, under an Act, passed in the Year of the Reign of King George the for [State the material Parts of the Title of the Act] will meet at the House of at on the Day of next, at the Hour of in the noon, in order to consult about erecting a Toll-gate on the Side of the said Turnpike Road, at or near a Place called across a certain Highway there, leading to

Dated the Day of 17

A. B. Clerk to the said Trustees.

No. VI.

Order of the Trustees for erecting a Side-gate.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act, passed in the Year of the Reign of King George the for [Here state the material Parts of the Title of the Act], being assembled this Day of 17 to enforce the Directions of an Act, passed in the Thirteenth Year of the Reign of King George the Third, For regulating the Turnpike Roads, (as far as the same respects the erecting of Side-gates), in pursuance of public Notice given in Writing upon all the Toll-gates erected on the said Road, and

Q

also

also in the News-papers circulated in this Part of the Country, for Twenty-one Days now last past, we do order, that a Toll-gate shall be erected on the Side of the said Turnpike Road, at or near a Place called across a certain Highway there, leading to and that the following Toll be taken at the said Gate; *videlicet*, [Here insert the particular Tolls to be taken at the said Side-Gate].

This to be signed by Nine Trustees at least.

No. VII.

Order of Trustees for permitting Carriages with Six-inch Wheels to be drawn by Horses in Pairs.

AT a Meeting of the Trustees of the Turnpike Roads, under an Act, passed in the Year of the Reign of King George the for, *etc.* [State the material Part of the Title of the Act], held at on the Day of One Thousand Seven Hundred

it was requested by several Persons, that Liberty should be given to draw Carriages with Fellies of the Breadth of Six Inches, by Horses in Pairs; and the State and Condition of the said Turnpike Road being taken into Consideration, and it appearing to us, that the said Request may be granted without Prejudice to the said Turnpike Roads, we do hereby authorise all Persons, who shall use Carriages with Fellies of the Breadth of Six Inches upon the said Turnpike Road, to draw such Carriages with Horses in Pairs, if they shall think fit, from and after the Day of next, pursuant to the Power given to us by an Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, *For regulating Turnpike Roads.*

This Meeting must consist of Seven or more Trustees.

*

No. VIII.

No. VIII.

Notice for letting Tolls.

NOTICE is hereby given, That the Tolls arising at the Toll-gate, (or Toll-gates, if more than One), upon the Turnpike Road at called or known by the Name of the Gate, will be let by Auction, to the best Bidder, at the House of at on the Day of next, between the Hours of and in the Manner directed by the Act, passed in the Thirteenth Year of the Reign of his Majesty King George the Third, For regulating the Turnpike Roads; which Tolls produced the last Year the Sum of above the Expences of collecting them, and will be put up at that Sum. Whoever happens to be the best Bidder, must, at the same Time, give Security, with sufficient Sureties, to the Satisfaction of the Trustees of the said Turnpike Road, for Payment of the Rent agreed for, and at such Times as they shall direct.

A. B. Clerk to the Trustees of the said Turnpike Road.

No. IX.

Order of Trustees for reducing the Tolls.

At a Meeting of the Trustees of the Turnpike Roads, under an Act, passed in the Year of the Reign of King George the for, &c.
[State the principal Part of the Title of the Act],
held at on the Day of

17

WHEREAS by the said Act there was no Power (or no effectual Power) given (as the Case may be) to the Trustees to lessen the Tolls authorised to be taken by the said Act; we, whose

Q 2

Names

Names are subscribed, being Seven or more of the Trustees acting under the said Act, being now assembled for reducing the Tolls authorised to be taken by and under the said Act, pursuant to public Notice given for that Purpose in the News-paper circulated in this Part of the Country, and also affixed upon all the Turnpike-gates erected upon the said Turnpike Road for upwards of One Calendar Month now last past; and having the Consent of the several Persons intituled to Five-sixth Parts of the Money now remaining due upon the Credit of the said Tolls this Day signified and proved to us, do hereby order, That the Tolls granted by the said Act shall, from and after the Day of 17 be lessened and reduced in the following Manner: [*Here state the several Reductions proposed to be made.*]

No. X.

Order of Two Justices, for determining what Repairs shall be done to new Roads by Persons who are discharged from the Repair of old Roads.

Middlesex. **W**E, Two of his Majesty's Justices of the Peace for the said County, acting within the (*Hundred*) of in the said County, having (at the Request of the Parties interested in the Repair of Part of the Highway (*or Turnpike Road*) hereafter mentioned, who could not agree about the Repair thereof), viewed a certain Part of the Highway (*or Turnpike Road*), described in the Plan hereunto annexed, of the Length of Yards, which hath been set out and appropriated for a new Highway (*or Turnpike Road*), between and in Lieu of an old Highway (*or Turnpike Road*), which hath been ordered to be stopped up; and having also viewed the Ground where the said old Highway was situated, and having summoned the Surveyor of the said

said new Highway (or Turnpike Road), and also *A. B.* (who was liable by Tenure, etc.) If the old Road lay in a different Parish, and was to be repaired by the Inhabitants, leave out the Words in *Italic*, and insert (the Surveyor of the (Parish, etc.) of where the said old Road lay, who were liable) to the Repair of the said old Highway (or Turnpike Road), to appear before us this Day; and having heard what has been alleged touching the Repairs of the said Part of the said Highway (or Turnpike Road), and having fully considered the same, and all the Circumstances of the Case, we think it just and reasonable, and do hereby order and (*adjudge*), that the said *A. B.* (or the Inhabitants of the said Parish, etc.) shall, from Time to Time, repatr, and keep in Repair, the Whole, (or a Part of the said Highway) from to containing Yards in Length at each End, whereof we have caused a Post, or Stone, to be placed, to ascertain the Extent thereof.

Given under our Hands and Seals, this
Day of 17

(If it be agreed, by the Consent of the Parties, to pay a Sum in gross, in Lieu of such Repairs, after the Word (*adjudge*) insert (By and with the Consent of the said *A. B.* signified by his subscribing his Name to this Order), (or by the Consent of the Inhabitants of the said (Parish, etc.) of signified in Writing, at a Vestry or other public Meeting, a Copy whereof is hereunder written) that the said *A. B.* (or the Inhabitants, etc.) is (or are) liable to repair Part of the said new Highway; and that if he (or they) shall, on or before the Day of next pay to the Surveyors of the Highways of the said (Parish, etc.) of (if it is not Turnpike Road), and, if it be Turnpike Road, (to the Treasurer of the said Turnpike Road), the Sum of he the said *A. B.* and his Heirs, (or the said Inhabitants, and their Successors), shall be for ever acquitted and discharged from

from the Burden and Obligation to repair the said new Highway, or any Part hereof.

(If it be by the Consent of Parties agreed to pay an annual Sum in Lieu of such Repairs, the Form will be easily varied, and adapted to that Case.)

I do consent and agree to the above Order.

A. B.

No. XI.

Agreement of Inhabitants, at a Vestry, or public Meeting, to pay a gross Sum, or annual Payment, to be discharged from the Repair of a particular Road.

WE, whose Names are subscribed, being a Majority of the Inhabitants of the (*Parish, etc.*) of assembled, this Day of at a Vestry, or public Meeting, held pursuant to Notice duly given, for the Purposes of consulting about an Agreement to be made concerning the Repair of Part of a Highway (*or Turnpike Road*), within the said (*Parish, etc.*) of do consent and agree to pay the Sum of to be absolutely exonerated and discharged from all future Repairs of the said Highway (*or Turnpike Road*), (*or if an annual Payment be agreed upon*), to pay annually the Sum of

No. XII.

Agreement between the Trustees of a Turnpike Road, and a Person liable by Tenure to repair some Part of it.

At a Meeting of the Trustees of the Turnpike Roads under an Act, passed in the Year of the Reign

Reign of King George the *for* [State the
principal Part of the Title of the Act], *held at*
the *Day of* 17

WHEREAS *A. B.* of is liable by Te-
nure, &c. (*as the Case shall be*) to the Repair
of a certain Highway leading between
and of the Length of Yards,
or thereabouts; and the said Highway being now
made Turnpike Road by Virtue of the said Act,
will occasion a greater Expence to make and keep
the same in proper Repair than would have been
necessary if no such Act had been obtained; and
the said *A. B.* attending this Meeting in Person,
(*or by C. D.* his Attorney or Agent, authorised to
treat in his Behalf), the said Trustees and the said
A. B. &c. in Pursuance of a Power given by an
Act, passed in the Thirteenth Year of the Reign
of King George the Third, *For regulating Turnpike*
Roads, have, in order to put and keep the said
Road in proper Condition and Repair, come to the
following Agreement; *videlicet*, That the said
Trustees shall, on or before the Day of
next, pay and allow the Sum of
out of the Tolls arising upon the said Turnpike
Roads, towards putting the said Road into proper
Repair, to be layed out and expended by the Sur-
veyor of the said Turnpike Road; and that the
said *A. B.* shall advance and pay into the Hands of
the Treasurer of the said Turnpike Road, on or
before the Day of next, the Sum
of to be also laid out and expended by the
said Surveyor in the Repair of the said Road; and
that from and after the Twenty-ninth Day of *Sep-*
tember next, the said Turnpike Road shall be kept
in Repair by the said Trustees out of the said Tolls,
as aforesaid, so long as the said Turnpike Act shall
continue, upon the said *A. B.* paying into the
Hands of their Treasurer the Sum of
upon the Twenty-fifth Day of *March*, in every
Year, which the said *A. B.* doth hereby, for him-
self

self and his Heirs agree to pay accordingly, so long as the said Road shall be so repaired by the said Trustees, as aforesaid.

[Or if it shall be agreed, that A. B. shall keep the Road in Repair, upon having an annual Allowance in Money or Statute-duty from the said Trustees, let the Agreement be varied, and adapted to the Case.]

No. XIII.

Order of Justices at a Special Session, for proportioning the Statute-duty, where there are Two or more Turnpike Roads in the same Place.

Middlesex. *At a Special Sessions, held by Justices of the Peace for the said County, acting for the (Hundred) Riding Division, etc.) of* at
within the said (Hundred, etc.) the Day
of 17

IT appearing to us, that Part of the Highway lying in the (*Parish, etc.*) of was made Turnpike Road by an Act, passed in the Year of the Reign of King George the called the Turnpike Road, and also that Part of another Highway, lying in the same (*Parish, etc.*) was made a Turnpike Road, by an Act, passed in the Year of the Reign of King George the called Turnpike Road; and that, &c. [*State the others in the same Manner, if there are more than Two*] and that by the said several Acts, more than Three Days Statute-duty are required to be performed by the Inhabitants of the said (*Parish, etc.*) upon all the said Turnpike Roads; and we having, pursuant to the Directions of the Act, passed in the Thirteenth Year of the Reign of King George the Third, *For regulating the Turnpike Roads*, duly summoned the Surveyors of the said several Turnpike Roads, and also the Surveyor of the said (*Parish, etc.*) to appear before

before us this Day; and having had Regard to the Extent and Condition of the several Highways within the said (*Parish, etc.*) and to the Tolls and Revenues arising from the said Turnpike Roads, and having heard and considered the whole Case, we do order, that the Inhabitants of the said (*Parish, etc.*) shall perform (*One*) Day's Statute-duty upon the said Road called the Turnpike Road, (*One*) Day's Statute-duty upon the said Road called the Turnpike Road, &c. under the Directions and Inspection of the Surveyors of those respective Turnpike Roads, and the Remainder of their Statute-duty upon the other Highways within the said (*Parish, etc.*) under the Direction and Inspection of the Surveyor (*or Surveyors*) thereof.

A. B.
C. D.

[*The Proportion of the Duty to be varied as the Circumstances of the Case shall require.*]

No. XIV.

Order of Justices at a Special Sessions, to take Part of the Statute-duty from Turnpike Roads, for the Benefit of other Highways in the said Parish, &c.

Middlesex. *At a Special Sessions, held by Justices of the Peace for the said County, acting in the (Hundred) of* within the said County, at
on the Day of 17

WHEREAS Application and Complaint upon Oath has been made unto us by A. B. Surveyor of the (*Parish, etc.*) of that the several Highways, not being Turnpike, within the said (*Parish, etc.*) are very extensive, and in bad Repair, and that a considerable Part of the Statute-duty arising within the said (*Parish, etc.*) hath been called forth, and required to be applied in the Repair

pair of certain Turnpike Roads lying within the said (*Parish, etc.*) which are in good Condition, and have a considerable Revenue for their Support, arising from the Tolls collected thereupon: And we have duly summoned *C. D.* the Surveyor of the said Turnpike Road, to appear before us, to shew Cause why the said Statute-duty called forth, and applied by him to the Repair of the said Turnpike Road, should not be withdrawn therefrom, and applied to the Repair of the other Highways within the said (*Parish, etc.*); and upon hearing the said *C. D.* and receiving an Account of the Revenues and Debts of the said Turnpike Road, and of the State and Condition of the Repair of the said Turnpike Road and Highway respectively; and it appearing to us, upon full Consideration had thereon, that Part of the Statute-duty hitherto employed by the said (*Parish, etc.*) for the Repair of the said Turnpike Road, may be conveniently dispensed without endangering the Securities for the Money advanced upon the Credit of the Tolls thereof; and that such Statute-duty is wanted for the Repairs of the other Highways within the said Parish; we, in pursuance of the Power given to us, by the Act, passed in the Thirteenth Year of the Reign of King George the Third, for *regulating Turnpike Roads*, do order, That from and after the Twentyninth Day of *September* next, there shall be only (*One*) Day's Statute-duty performed by the Inhabitants of the said (*Parish, etc.*) upon the said Turnpike Road within the same, and that the Remainder of the Statute-duty shall be performed upon the other Highways within the said (*Parish, etc.*)

[*If there are more Turnpike Roads than One, or the whole Statute-duty shall be thought fit to be taken away, this Form must be varied to fit those Cases; the Summons to the Surveyors will be very easily formed from this Order.*]

No. XV.

Licence by the Trustees for drawing with an increased Number of Horses up a steep Hill.

*At a Meeting of the Trustees of the Turnpike Roads,
under an Act, passed in the Year of
the Reign of King George the for [State
the principal Part of the Title of the Act] held
at the Day of*

17

IT appearing to us, upon the Oath of being a Person experienced in levelling, that the Rise of (*Part of*) a certain Hill, upon the said Turnpike Road, lying in the Parish of called or known by the Name of Hill, between the Post marked (*Put on*) and the Post marked (*Take off*) being Yards in Length, is above Four Inches in a Yard, we do hereby allow to be drawn up the said Hill, between the Posts above mentioned, Waggon, having the Soles or Bottom of the Fellies of the Wheels of the Breadth of Nine Inches, with Horses; and Carts having the like Wheels, with Horses; and Waggon having Wheels of the Breadth of Six Inches, with Horses; and Carts having the like Wheels, with Horses; and Waggon having Wheels of less Breadth than Six Inches, with Horses; and Carts having the like Wheels, with Horses.

[This Form is calculated where any Part of the Hill between those Posts rises above Four Inches in a Yard; but if the whole Rise between the Posts shall be upon an Average more than Four Inches in a Yard, before the Word (above) insert (upon an Average), which will authorise the Justices to allow more Horses than mentioned in the Act.]

No. XVI.

No. XVI.

Certificate of the above Order to the Justices
of Peace at their Quarter Sessions.

I A. B. Clerk to the Trustees, mentioned in
the above Order, do hereby certify to the Jus-
tices of the Peace, for the (County) Riding) Di-
vision) of at their General Quarter
Sessions of the Peace, that the above is a true Co-
py of the Order made by the said Trustees, for
the Purposes therein mentioned.

Dated this Day of 17
A. B.

No. XVII.

Agreement by Subscription for advancing
Money to make and repair a Turnpike
Road or Highway.

WE whose Names are subscribed, do agree to
advance and pay the several Sums wrote by
us, opposite to our Names, unto
to be laid out and expended in the making and re-
pairing a certain Highway leading from
to after an Act of Parliament shall
be obtained for making the same Turnpike Road,
upon having the Tolls to be collected upon such
Turnpike Road assigned and made over to us, as a
Security for the respective Sums so to be advanced
by us, together with Interest for the same, after
the Rate of per Centum per Annum,
which Sums we do hereby severally agree to pay by
Instalments, in the following Manner, videlicet,
One Fourth Part thereof on the
Day of next, One Fourth Part, (etc.
etc. etc.)

Dated this Day of
17

No. XVIII.

No. XVIII.

Warrant from a Justice of Peace to enter the Toll-gate House, and remove the Persons therein.

Middlesex. *To the (Constable) Headborough*
Tithingman) *of in the said County*

WHEREAS Complaint hath been made unto me *A. B.* Esquire, One of His Majesty's Justices of the Peace for the said County, upon the Oath of and other Evidence now produced to me, that *C. D.* who now inhabits the Turnpike or Toll-gate House at upon the Turnpike Road leading from to and was appointed to collect the Tolls there, hath been duly discharged by the Trustees of the said Turnpike Road from any further collecting or receiving the Tolls arising at the said Gate, and hath refused, and still doth refuse, to quit the Possession of the said House; and the said *C. D.* having been summoned to appear before me this Day, to shew Cause why he should not be removed from the said House, and having shewn no sufficient Cause for that Purpose, I do hereby authorise and require you, with such Assistance as shall be necessary, to enter into the said Toll-house or Turnpike-house, and the Buildings belonging thereto, in the Day-time, and to remove the said *C. D.* and all such Persons as shall be found therein, together with his and their Goods, out of such House and Buildings, and to put *E. F.* the Person lately appointed by the Trustees to collect such Tolls, into the Possession thereof, for which this shall be your sufficient Warrant.

Given under my Hand and Seal this
Day of 17

No. XIX.

No. XIX.

Notice for Contracts to be made, for getting and carrying Materials.

NOTICE is hereby given, that *A. B.* Surveyor of the Turnpike Road, lying between _____ and _____ will, on the _____ Day of _____ next, at the Hour of _____ in the _____ noon, let the getting of _____ (*Tons*) of Gravel, or _____ (*Tons*) of Stone, to be got at a Pit at _____ for the Use of the said Turnpike Road, and will also let the Carriage of the said Gravel (*or Stone*) from the said Pit to _____ where the same is to be used and employed upon the said Turnpike Road; and all Persons desirous of entering into a Contract with the said Surveyor, either for getting or carrying the said Materials, are desired to attend at the Time and Place before mentioned.

Dated this _____ Day of _____ 17 _____
A. B.

No. XX.

Bond from the Surveyor.

WE *A. B.* Surveyor of the Turnpike Roads, under an Act passed in the _____ Year of the Reign of King *George* the _____ for [State the principal Part of the Title of the Act] and *C. D.* of _____ are bound to *E. F.* of _____ in the Sum of _____ Pounds, to be paid to the said *E. F.* his Executors, Administrators, or Assigns, for which Payment we hereby bind ourselves severally, and each of our Heirs, Executors, and Administrators.

Dated the _____ Day of _____ 17 _____

The Condition of this Bond is such, that if the said *A. B.* his Executors, Administrators, shall duly

duly and faithfully account for, apply, and pay, all and every the Sum and Sums of Money, which hath come, or shall come, to his Hands as Surveyor of the Turnpike Road aforesaid, according to the Direction and true Intent and Meaning of the said Act, and of the Statute, made in the Thirteenth Year of the Reign of His Majesty King George the Third, *for regulating the Turnpike Roads*, then this Bond to be void, or else to remain in full Force.

(The Bond from the Treasurer will be in the same Form)

No. XXI.

Summons for any Person or Persons to attend a Justice or Justices.

Middlesex. To A. B. of

WHEREAS Complaint and Information hath been made upon Oath before me C. D. One of his Majesty's Justices of the Peace for the said (County, &c.) by E. F. of that, etc. [*Here state the Nature and Circumstances of the Case, as far as it shall be necessary to shew the Offence, and to bring it within the Authority of the Justice; and, in doing that, follow the Words of the Act as near as may be.*] These are therefore to require you personally to appear before me, (or the Justices to be assembled at their Special Sessions, to be holden) at in the said (County, &c.) on the Day of next, at the Hour of in the noon, to answer to the said Complaint and Information made by the said E. F. who is likewise directed to be then and there present, to make good the same: Herein fail not.

Given under my Hand and Seal, this

Day of

17

No. XXII.

XXII.

Information.

Middlesex. **B**E it remembered, That on the
Day of 17
A. B. of in the said County, in-
formeth, and maketh Oath before me
One of his Majesty's Justices of the Peace for the
said County, that of
in the said County, [*Here describe the Offence parti-
cularly, and follow the Words of the Act as near as may
be*], contrary to the Statute, made in the Thir-
teenth Year of the Reign of King George the Third,
for regulating the Turnpike Roads, which hath im-
posed a Forfeiture of for the said
Offence.

Taken and sworn the *A. B.*
of before me Day }

XXIII.

Form of Conviction.

Middlesex. **B**E it remembered, That on the
Day of in the
Year of our Lord, 17 at
in the County aforesaid, *A. B.* came before me *C.*
D. Esquire, One of his Majesty's Justices of the
Peace for the said County, and informed me, that
E. F. of on the
Day of now last past, at
in the said County, did [*Here set forth the Fact, in
the Manner described by the Statute*] whereupon the
said *E. F.* after being duly summoned to answer
the said Charge, appeared before me on
the Day of at
in the said County; and having heard the Charge
contained in the said Information, declared, that
5 he

he was not guilty of the said Offence; but the same being fully proved, upon the Oath of G. H. a credible Witness, it manifestly appears to me the said Justice, that he the said E. F. is guilty of the Offence charged upon him in the said Information; it is therefore considered and adjudged by me, the said Justice, that he the said E. F. be convicted, and I do hereby convict him of the Offence aforesaid; and I do hereby declare and adjudge that he, the said E. F. hath forfeited the Sum of of lawful Money of Great Britain, for the Offence aforesaid, to be distributed as the Law directs, according to the Form of the Statute in that Case made and provided.

Given under my Hand and Seal, the
Day of 17

After the Words "being duly summoned to answer to the said Charge," insert, (*did not appear before me, pursuant to the said Summons*); or, (*did neglect and refuse to make any Defence against the said Charge; but the same being fully proved, &c*) as before.

This to be inserted where the Party refuses to appear upon the Summons.

After the Words "contained in the said Information," insert, (*acknowledged, and voluntarily confessed the same to be true, and it manifestly appears to me, the said Justice, &c.*) as above.

This to be inserted when the Party accused confesses the Charge.

No. XXIV.

Warrant to distrain for the Forfeiture.

Middlesex. To the (Constable) Headborough) or Tithingman) of

WHEREAS A. B. of in the said County, is this Day convicted before me, C. D. Esquire, One of his Majesty's Justices of the Peace in and for the said County, upon the Oath of G. H. a credible Witness, for that the said A. B. hath, [*here set forth the Offence, describing it particularly in the Words of the Statute, as near as*

R

may

may be] (contrary to the Statute in that Case made and provided), by Reason whereof the said *A. B.* hath forfeited the Sum of _____ to be distributed as herein is mentioned, which he hath refused to pay. These are therefore in his Majesty's Name to command you to levy the said Sum of _____ by Distress of the Goods and Chattels of him the said *A. B.* and if within the Space of Four Days next after such Distress by you taken, the said Sum, together with the reasonable Charges of taking and keeping the same, shall not be paid, that then you do sell the said Goods and Chattels so by you distrained, and out of the Money arising by such Sale, that you do pay One Half of the said Sum of _____ to *E. F.* of _____ who informed me of the said Offence, and the other Half of the said Sum of _____ to *J. K.* the Surveyor of the Turnpike Road (*describing it*), where the said Offence (*Neglect or Default*) happened, to be employed towards the Repair of the said Road, returning the Overplus on Demand to him the said *A. B.* (the reasonable Charges of taking, keeping, and selling the said Distress, being first deducted); and if sufficient Distress cannot be found of the Goods and Chattels of the said *A. B.* whereon to levy the said Sum of _____ that then you certify the same to me, together with this Warrant.

Given under my Hand and Seal the _____ Day
of _____ 17 _____
C. D.

No. XXV.

Return of the Constable to be made upon the Warrant of Distress, where there are no Effects.

I *A. B.* Constable of the (*Parish, etc.*) of _____ in the County of _____ do hereby certify and make Oath, That by Virtue of this Warrant,
ant,

A. B.

C. D. }

1

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in the
Day of

aforesaid,

aforesaid, to apprehend the said *A. B.* and him
safely to convey to the Common Gaol (*or House of*
Correction), at _____ in the said County,
and there deliver him to the Keeper thereof, to-
gether with this Precept; and I do hereby also
command you, the said Keeper, to receive and
keep in your Custody the said *A. B.* for the Space
of Three Months; unless the said Sum shall be
sooner paid, pursuant to the said Conviction and
Warrant, and for so doing this shall be your suf-
ficient Warrant.

Given under my Hand and Seal, the
Day of _____ in the Year of our Lord 17
C. D.

No. XXVII.

Notice of Appeal to the Quarter Sessions.

A. B. take Notice, That I intend to appeal to
the next General Quarter Sessions of the
Peace to be holden for the (*County, etc.*) of
against an (*Order, Conviction*), or other *Proceedings*
(*as the Case may be*), [*Particularly specifying the Pur-*
port of such Order, etc. and assigning the Grievance,
and Cause of Complaint].

Dated the _____ Day of _____ 17
C. D.

REMARKS.

R E M A R K S.

CHAPTER I.

SECTION I. *N*O Person shall be qualified for acting, &c.] Particular Turnpike Acts mostly direct a Qualification for their Trustees, but where there are Omissions in that Respect this Clause is intended to supply them. I cannot possibly conceive the Design of the Legislature in exempting the Heir-apparent of 80*l. per Annum* from the Test of the Oath, and subjecting the Possessor of 40*l. per Annum* to it. The Heirship of 80*l.* cannot be more obvious than the Possession of 40*l.* and, consequently, the Notoriety of the Matter must preclude Occasion for Dependence on the Parties *ipse dixit*, equally in both Cases. The Ascertainment of personal Property may, indeed, be sometimes rather more difficult; and therefore, when that is made the Criterion, the Oath is imposed with some Appearance of Reason. The above-mentioned Exemption could not, surely, be designed as a Compliment to Rank and Fortune, as supposing Honour and Honesty their indispensable Concomitants. In whatever Light the Heirship to 80*l. per Ann.* might be viewed a *Century ago*, it can have little Claim to the Compliments due to Rank and Fortune *now*.

There is an Oddity, not easy to be accounted for, in the several Sums specified as Qualifications, 80*l.* 40*l.* and 800*l.*—why could they not as well have been 100*l.* 50*l.* and 1000*l.*? Even these Sums, I think, would have been full low enough, considering the present State of Things.

Such of the People called Quakers as act in the Capacity of Trustees, qualify by taking, instead of the Oath above-mentioned, their solemn Affirmation, the Terms whereof as finally settled by the 8th of Geo. Chap. 6. are as follows: "*I, A. B. do solemnly, sincerely, and truly, declare and affirm.*"

The solemn Affirmation of Quakers is, by the 22d of Geo. II. Chap. 46. allowed instead of an Oath, in all Cases wherein by any Act of Parliament such Oath shall be allowed or required, although no express Provision be made for that Purpose in such Act; therefore, such Provisions, which are very common in Acts of Parliament, are [as Dr. Burn justly observes] superfluous. Vide *Burn's Justice*, Vol. iii. p. 232. 13th Edition.

But no Quaker, by Virtue of his Affirmation, shall be qualified or permitted to give Evidence in any criminal Case, or serve on any Juries, or bear any Office or Place of Profit in the Government. 7 and 8 W. III. c. 34. § 6.

This Clause of 7th and 8th W. III. ought to be repealed: The Quakers Affirmation should be allowed, not only in some Cases, but in all: There can be no rational Pretence why it should not; as the same Penalty is appointed for false Affirming, as for Perjury. Not to mention the Farce daily made of Qualification Oaths, the abridging any Person whatever of any Privilege enjoyed by his Fellow-Citizens*, merely on Account of Singularity of Opinion, or Scruple of Conscience, is a Circumstance disgraceful to a pretendedly free and enlightened Nation. But this is only one Instance among many, of a servile and absurd Adherence

* The Quakers by the *Test of the Oath*, and they and all other Dissenters (who will not conform) by the *Test of the Sacrament*, are precluded from serving the Community in the honourable Station of Magistrates; but are obliged to submit to the Drudgery of serving as Constables, and in other inferior and disagreeable Offices.

to the illiberal Principles and Practices of our narrow-spirited Ancestors.

SECTION III. There were, undoubtedly, some valid Reasons for this Incapacitation of Publicans ; but Expedients designed to prevent an Evil, sometimes preclude an Advantage. Reputable Innkeepers, whose obvious Interest it is to have *good Roads*, would surely have made more useful Trustees than Shopkeepers, who are but little concerned in the Matter, or Farmers, who often imagine it better to have *bad Ones*. I am sorry to remark, that such is the Avarice and Ignorance of the Yeomanry in general, that they are too frequently complaining of the Payment of Toll, and Performance of Statute-duty, as intolerable Burthens ; though it is certain, if that Toll and Duty are properly applied, no Persons derive more real Benefit from the Application.

SECTION IV, *Shall within one Month.*] Here is a peremptory Mandate ; but how is Obedience to it to be enforced, since no particular Penalty is imposed by the Act ? Every Statute, it may be said, contains in itself an implied, if not an expressed Penalty, on Non-observance of its Directions, *viz.* A Power of Prosecution by Indictment : But who must indict ? According to the old Proverb, “ Every Body’s Business, is Nobody’s ; ” and, frequently as Opportunities of indicting offer, it is well known that they are rarely embraced. The general implied Penalty of Indictment was not deemed sufficient in the Case of a Trustee’s Qualification ; why then should it be deemed sufficient in this Case ? A particular Penalty is imposed on Trustees if acting unqualified ; and if a particular Penalty had been imposed on Trustees permitting Treasurers and Surveyors to act without giving Security, and on Treasurers and Surveyors for so acting, the Law had been uniform. Perhaps, we are to understand, that Treasurers and Surveyors, who do not give Security, are not legally constituted such : But if any thing of this Kind was in-

tended, it ought to have been specified. After all, the Clause seems unnecessary: Trustees commonly chuse, for Treasurers, Gentlemen of known Property and Probity; nor can I conceive any possible Motive they can have for chusing others; and, as a discretionary Power is vested in them in Matters of much greater Consequence, it might, surely, have been vested in them for the sole Management of their Surveyors, and they might then have refused to elect any Person to the Office who would not find Security. In fact, such Clauses as this are no great Compliments to the Sagacity and Attention of those intrusted with the Care of Turnpike Roads.

SECTION V. *All Clerks, Treasurers, Surveyors, and other Officers appointed, or to be appointed, by any Act or Acts made for the Repair of any Turnpike Roads.*] These are the Words of the Act. Should they not have been "All Clerks, &c. appointed, " or to be appointed, by VIRTUE of any Act or " Acts, &c." Such Officers are seldom, perhaps never, appointed by Name in Turnpike Acts; but are appointed by the Trustees, in Consequence of Power given by such Acts to appoint them.

SECTION VI. *Where a sufficient Number of Trustees*] That is, I suppose, such a Number as is deemed by particular Turnpike Acts sufficient for the Transaction of Business relative to their respective Turnpikes.

SECTION VII. *Signed by a competent Number of Trustees.*] Quere, What is a competent Number? Should not the least Number, deemed competent, have been specified, as Five, Seven, &c.?

C H A P. II.

SECTION I. *MAY receive and take over and above the Tolls already granted, or hereafter to be granted,*] This is the Language of the Statute,

Statute, and very vague and indeterminate it is. I apprehend it must mean, over and above all Tolls granted by present, and to be granted by future particular Turnpike Acts; together with the additional Tolls imposed on narrow wheeled Carriages by subsequent Clauses of the General Act. 13 G. III. c. 84.

The ingenious Dr. BURN, who is in general extremely accurate, has made a small Slip in his Account of the additional Toll for Overweight. Not adverting to the Repeal of that Part of the Clause of 13 G. III. c. 84. which imposes the Sum of Twenty Shillings *per* Hundred, he first gives that Imposition as Matter of Law, and afterwards gives a List of the several Sums imposed by 14 G. III. c. 82. seemingly by Way of Explanation.

“ And may take over and above the Tolls, an
 “ additional Toll, the Sum of 20s. for every Hun-
 “ dred Weight of 112*lb.* to the Hundred, which
 “ every such Carriage, with the Loading thereof,
 “ shall weigh, over and above the Weights hereby
 “ allowed to them.” *Burn's Justice*, vol. II. p.
 418. Edition of 1776. In the next Page he says,
 “ Which said additional Toll shall be as follows,
 “ viz. For the First and Second Hundred of such
 “ Overweight, the Sum of 3*d.* for each Hun-
 “ dred, &c.”

Now as the 14 G. III. c. 82. positively repeals the Imposition of 20s. *per* Hundred, by 13 G. III. c. 84. Dr. Burn should have suppressed the first quoted Passage. I mention this, only that the Mistake may be corrected in the next Edition of his truly valuable Work.

SECTION II. I did not chuse to incumber my Text with any thing not clearly and positively Law; but I thought proper to mention here the Clause of 13 G. III. c. 84. § 6. respecting this Matter of Exemptions, because, although it is wholly superseded, or virtually repealed by 14 G. III. c. 82. § 3. it is not verbally repealed thereby; for which Reason, I suppose, an Abstract of it is retained

retained by Dr. Burn. Vide *Burn's Justice*, vol. III. p. 420. Edition of 1776.

“ Provided always, and be it further enacted,
 “ That the Regulations of Weight herein before-
 “ mentioned, shall not extend, or be deemed or
 “ construed to extend, to any Waggon, Carts, or
 “ other Carriages, employed only in Husbandry,
 “ or carrying only Manure for Land, Hay, Straw,
 “ Fodder, or Corn unthrashed; and that where
 “ Lime or other Manure is, or shall, by any par-
 “ ticular Turnpike Act, be permitted to pass
 “ through any Turnpike Gate Toll-free, or upon
 “ paying less Toll than is required to be paid for
 “ other Goods, it shall be liable to be weighed at
 “ all Weighing Engines upon such Turnpike
 “ Road, together with the Carriages in which
 “ such Lime or Manure shall be conveyed, and
 “ shall pay such additional Toll for Overweight
 “ as herein before directed.”

On this I shall observe, that Hay and Straw carried for Sale, not being excepted from the above Exemptions, they were certainly not liable to be weighed; but as from the Exemptions of 14 G. III. c. 82. § 3. they are expressly excepted, they are by that Statute (which is the Law now in force) undoubtedly liable to be weighed, and of course liable to the additional Toll. On the other Hand, that Part of the Clause above quoted, which subjects Lime and other Manure to the Test of the Weighing Engine in certain specified Cases, is rendered an Inanity by the 14 G. III. c. 82. § 3. aforesaid, which declares that they shall not be weighed at all.

SECTION III. The first Part of this Clause is Work of Supererogation. By Section I. of this Chapter, Trustees are impowered to order all loaded Carriages to be weighed; what Occasion, then, was there for an immediate parliamentary Requisition of the Gate-keeper? The Part, appointing Punishment for the neglecting or conniving Gate-keeper, could only be at all necessary,
 and

and that is strangely expressed. From the Words of the Act, it seems difficult to determine when the Crime of Neglect, or Connivance, is committed, and consequently the Forfeiture incurred. The Gate-keepers are required to weigh such Waggon, &c. which they shall have Reason to believe carry Overweight. Now, supposing a Waggon which has passed the Gate unweighed, should, by the Powers given in the next Clause, be obliged to return, and on Trial be found illegally loaded; still the supposed Culprit Gate-keeper has this Salvo for his Conduct, That he had no Reason for Suspicion; that the Appearance of the Carriage in Question, was no way different from that of other Carriages, which had passed the Test of the Engine with Impunity; and that his Sagacity was inadequate to the Task of discovering, that Part of its Contents were Lead or Iron. The Apology must be allowed to be rational: His Judgment must, indeed, be nice, who could judge on View to the Hundred and Sixtieth Part of a given Quantity. In short, here is a Man intrusted, and not intrusted; a Man invested with Power to decide, and yet rendered punishable if his Decision should happen to be erroneous. In fact, the whole Matter might have been left to the Trustees; they had, as before hinted, the Power of ordering Carriages to be weighed, and might have punished Disobedience to their Orders, by Dismissal of the Party disobeying. Even if further Punishment of such Party was thought needful, it might have been provided in a few explicit and concise Expressions, as for Example: "Any Gate-keeper, or other Person, appointed by the Trustees to have the Care of any Weighing Engine, and to weigh all Carriages liable to be weighed, who shall suffer any such Carriage to pass, without weighing the same, shall forfeit, for every Offence, the Sum of Five Pounds."

SECTION V. *The Surveyors of Turnpike Roads shall, and are authorised and required to make convenient*

ent Turning-places, &c.] The Trustees of Turnpike Roads are generally supposed to be the Delegates of the Legislature, and the Surveyor to be no more than their Servant: But here is a pompous Transference of extra-servitorial Authority to the Surveyor evidently unnecessary, and a Requisition of Duty from him, which he may find exceedingly injurious. Trustees may have agreed with a Surveyor, not adverting to this Clause [and what Surveyor will be likely to advert to it?] for a certain stipulated Term and Salary; they may afterwards, by Virtue of this Clause, insist on his making Turning-places, as a particularly specified Branch of his Business, at his own Expence, and that Expence, perhaps, a very unreasonable one. Such a Circumstance, it may be said, is not probable; but it must, surely, be allowed to be possible.

The Act says, that "Turning-places are to be made within Three Hundred Yards of the Toll-gate on each Side thereof, if the Ground will admit." I am really at a Loss to discover the Meaning of this same curious conditional Direction. An Order to make Turning-places where there is not Room, only in Case there is Room [and what else can be meant by the Ground admitting it?] is contradictory and nonsensical. If it be said, 'That the Order relates to Inequality of Surface, and not to lateral Extent; or, in other Words, that the Road only should be levelled where it is sufficiently wide; in that Case, the Use of the preceding Clause for enforcing Carriages to return, will be, in great Measure, annihilated. All Roads ought to be wide enough for a Waggon to turn, but many are not; and if a Waggon cannot turn, it cannot readily come back to the Weighing Engine. Supposing Increase of Width at all designed, some may think, that one Turning-place is to be made at all Events, but not Two, excepting where the Road is already wide enough to make another: This Explanation, however, does not remove the Absurdity; the Affair can then be of Utility but by Halves;

Halves; for where the Road is not wide enough on both Sides the Weighing Engine, every Body must perceive that Carriages can be weighed only when coming one Way. Supposing Widening to take Place at all, how is the Surveyor to proceed? Is he to proceed in a summary Way, and take Land, *nolens volens*, from the adjoining Fields, to make his Turning-place?

After all, the whole Affair might have been very safely confided to the Discretion of the Trustees. Such Trustees as approved of Weighing Engines, would, undoubtedly, erect them; and such as erected them, would, as undoubtedly, endeavour to avail themselves of all their Advantages; particularly they would, by Virtue of the Clause above-mentioned, sometimes oblige Carriages to return and be weighed; but they would not expect Impossibilities, and require a broad-wheeled Waggon to turn in a Road Twelve Feet wide. They would, if at Liberty to chuse a Place for their Toll-gate and Engine, chuse one where the Road was wide; and if they were not at Liberty to chuse, or if no such Place could be found; as their Acts of Parliament universally impower them to purchase Land to widen where they deem it necessary, they would, undoubtedly, exert that Power in the Case in Question. If the Legislature could even suppose that any Trustees would be so very unconscionable, as to make the Driver of a Carriage pay Forty Shillings for not turning in a Place when it was not possible for him to turn, and, therefore, thought a compulsory Clause about Turning-places necessary; such Clause might, surely, have been expressed in a Manner not absolutely unintelligible.

SECTION VII. *If any Person.*] Thus, whoever commits the Crime, the Owner of the Carriage is made answerable for it, on the Presumption, I suppose, that it could not be committed without his Order, or, at least, without his Knowledge. This Method of Proceeding also affords more certain Means of punishing the Offence, as
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the Owner must be easily discoverable, but the immediate Actor might as easily remain unknown.— It should seem, that when the Owner is Driver, he is subject only to the pecuniary Penalty; but when he is not Driver, and the Driver commits the Crime, it should seem that both are punishable; that the former incurs the Forfeiture of Five Pounds, and the latter is liable to Imprisonment.

SECTION VIII. There is a Mistake in the marginal Note of the Act, respecting the Forfeiture in this Article: The Note says, “A Sum not exceeding Five Pounds, nor less than Forty Shillings.” The Act says, a Sum not exceeding Five Pounds, nor less than Twenty Shillings.

SECT. IX. and X. Here is a most flagrant Instance of that Neglect of the *lucidus ordo*, so common and so very inconvenient in our Statutes: These Sections, the Contents whereof are naturally inseparable from the Matter contained in this Part of the Act, I have been obliged to fetch from Clause 66, almost at the other End of it; a Place where no Person would have thought of looking for any Thing relating to Weighing Engines.

The Words in the first Section, “The Trustees of every Turnpike Road in England,” are too explicit to admit of a Doubt; otherwise, it might have been thought that Tables of Weight were only designed to be put up at Gates on Roads where there were Weighing Engines. The Intention of placing them universally, is obvious: *viz.* To make the Laws respecting Weight as public as possible, and thereby prevent Persons from ignorantly offending.

SECTION XI. The Precedence of Rank given to Clerks and Surveyors, in the Nomination of them and Treasurers, in this Section, must occasion a Smile to those who are acquainted with the real Economy of Turnpikes. The Treasurer is generally one of the most opulent and intelligent of the Trustees, and is Chairman of their Meetings; the Clerkship, though a genteel, is an inferior Office. Surveyors
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to public Bodies, it must be owned, are often very great Men, and assume mighty consequential Airs for doing little Matters. The Masters implicitly submit to the Servant, who understands Mathematics, and Mechanics, and all that ; and of Course must know better than they. The Surveyors of Turnpike Roads, however, seldom rank in this Predicament ; they are frequently decayed Farmers or Tradesmen, recommended by some Friend or Relation to an Office they are absolutely unqualified to execute. For the Construction or Improvement of Roads, some Judgment in the Advantages of Ground, and a slight Knowledge of Mechanics, are undoubtedly requisite ; but where Trustees are possessed of these, and will condescend to give their Attendance, the best Surveyor they can employ will be an honest industrious Labourer, who has Docility enough to understand, and Dexterity enough to perform their Orders. Such Surveyors will also be the properest Persons to have the immediate Superintendence of a Road, where properly constructed or improved : The Trustees of some Turnpikes where I am concerned, divide their Roads into Districts of Six or Seven Miles each ; and assign to each District, such a Surveyor, who at once works with, and manages his Labourers ; and the Appearance of the Road, where this Plan is pursued, sufficiently demonstrates its Propriety. When Trustees are unacquainted with the most approved Methods of constructing, improving, and preserving Roads, their wisest Way will be to employ a professed Engineer.

C H A P. III.

SECTION IV. **H**OWEVER eligible this Plan of limiting the Number of Horses may be in Point of Policy, there are cer-
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tainly very forcible Objections against it in point of Humanity. The avaricious Farmer, who finds himself restricted to a Team of Three or Four Horses, will too often load those Horses beyond their Ability; nor will the Consideration of the future Loss he may probably suffer by injuring his Cattle, operate at all in their Favour, a remote Expence being always less regarded than a present one by Persons of confined Ideas. The poor Animals are tormented enough by their inhuman Drivers, and the Legislature should not stimulate their Masters to torment them also. Indeed, for my own Part, I have no high Opinion, even in point of Policy, of this Affair of limiting Horses: Three Horses straining to the utmost of their Strength, and forcing their Feet into the Ground, will, especially on Ascents, damage a Road more than Five drawing a greater Weight with a steady regular Draught.

SECTION V. "*For every Offence against the Provisions aforesaid.*"] What constitutes an Offence in this Case? Drawing with one Horse above the limited Number is, undoubtedly, an Offence; but is drawing with Two Horses above the limited Number, One Offence only, or Two? The marginal Note to the Act says, "The Owner forfeits for every Horse above the limited Number 5*l.* and the Driver 20*s.*" The Highway Act on this Subject is explicit; "The Owner of such Waggon or Cart respectively, shall forfeit the Sum of 5*l.* and the Driver not being Owner, the Sum of 10*s.* for every Horse or Beast which shall be so drawing, above the Number hereby so respectively limited as aforesaid." Quere, When the Owner is not Driver, does he forfeit the 5*l.* and the Driver the 20*s.* also? From the Words of the Act, I should apprehend that both forfeit. When the Owner is Driver, does he forfeit 6*l.* viz. 5*l.* as Owner, and 20 Shillings as Driver?—From the Words of

of the Act, I should apprehend he forfeits the 5*l.* only, as Owner.

SECTION VII. By Section V. of this Chapter, a fixed Penalty of 20*s.* is inflicted on Drivers of Waggons drawn by supernumerary Horses ; but, by this Section, they are liable to a discretionary Penalty, not exceeding 5*l.* nor less than 10*s.* What is the Reason of this Difference ? From the Words, "*sue for the same,*" in § V. it might, perhaps, be supposed, that the absolute 20*s.* was the Penalty meant when the Prosecution was by Action, and that the discretionary Sum from 5*l.* to 10*s.* was the Penalty meant when the Prosecution was by Information before a Justice ; but this cannot be the Case, because by Chap. XXI. § 10. § 79. of the Act, no Penalty under 40*s.* is recoverable by Action ; and, for this Reason, the above quoted Words, "*sue for the same,*" in § 5, are, as far as relates to Drivers, a manifest Absurdity. What can be the Reason of the Difference of the Penalty 20*s.* by Clause 5, and 10*s.* by this Clause, when there can be no possible Difference in the Crime ? In fact, this whole Clause seems superfluous, the Part which gives the Power of Apprehension excepted ; and that Part might as well have been added to § 5. A Multiplicity of Punishments, and of Modes of inflicting them, only creates Confusion.—The Highway Act has only one Penalty for the Owner, *viz.* 5*l.* and one Penalty for the Driver, *viz.* 10*s.* The Constructors of the Act seem to have had short Memories : the Penalty of this 7th Section [21 of the Act] is enacted, not only for drawing with supernumerary Horses, but with Carriages unmarked : it was surely forgot, that a Penalty was enacted for the first Offence a few Clauses before, [§ 5 of this Chap. § 13 of the Act] and that the second Offence had not been so much as mentioned. Forty-seven Clauses afterwards it is, in deed, mentioned ; and another different Penalty affixed to it, *viz.* a discretionary Sum from 5*l.* to 20*s.*

SECTION VIII. There is an Expression in this Clause as it stands in the Act, which I have purposely omitted. After mentioning taking off Horses from Carriages, the Act proceeds thus: "Or shall alter, or cause the Distance of the Wheels thereof to be altered:" The Reason of my omitting these Words was this, That there seems no Law now in Force to which they can relate. The alone Circumstance I think they could have Relation to, was 13 G. III. c. 84. Clause 12, respecting the Construction of Carriages travelling on Roads above Twenty Miles from London, which Clause is now repealed by 14 G. III. c. 14.

SECTION XII. *Except such Waggon, &c. as shall be authorised to be so drawn.* The Words of the Act are, "*Other than and except such Waggon, &c. as shall be authorised to be drawn* IN ANY OTHER MANNER." But, certainly, Authority was not wanting for drawing IN ANY OTHER MANNER, but for drawing IN THAT MANNER; for, against drawing in any other Manner, there is no Prohibition. If those (whoever they are) who frame the Draughts of these Bills, are no better acquainted with the Rudiments of their own Language; the Committees, who, I suppose, do, or, at least, ought, to examine them before they are passed, should, surely, have a little more Regard to their own Credit than to give a Sanction to Nonsense. This Clause proscribes drawing in Pairs, with Wheels under the Breadth of Nine Inches; but provides no Penalty in Case of Disobedience. The Carriages proscribed must not pass; but how are they to be prevented from passing? by shutting the Toll-gate against them, and, consequently, sending them back to whence they came, or to find out some Bye-Road to the Place of their Destination? Section 8 of this Chapter [Clause 17 of the Act] inflicts a Penalty on Persons taking off Horses, to avoid any Toll Forfeiture, or Penalty, for drawing with more Horses, or *in any other Manner* than the Act allows; but I, who have searched
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the Act from End to End, can find no such Penalty as this last-mentioned, for drawing *in any other Manner than the Act allows*. By § 9, of this Chap. [Clause 57 of the Act] there is a Penalty inflicted on Gate-keepers who suffer Carriages to be drawn with more Horses, *or in any other Manner than the Act directs*, without proceeding, in the Space of One Month, to recover the Forfeitures or Penalty inflicted for each Offence. The poor Gate-keeper is here placed in a most cruel Predicament; he is punishable for not proceeding to recover a Penalty which is not in Existence. A Meeting of Trustees would hardly be unconscionable enough to say to their Gate-keeper, "You saw on such a Day a narrow-wheeled Waggon drawn by Horses in Pairs, and did not proceed to recover the Penalty; we will punish you as the Act directs; you must pay Forty Shillings." But supposing this to be said, and the Gate-keeper, with more Spirit than Prudence, at the Hazard of his Place, should ask, "Gentlemen, what Penalty should I have proceeded to recover?" Where must the Trustees have Recourse for an answer? It cannot be said, that the Penalty here mentioned must mean the general Penalty of Indictment for Disregard of the Law: for a Case could very rarely happen in which an Indictment could be proceeded on in a Week. Some Persons may think the Attention I have here, and in some other Parts of my Remarks, paid to these *Minutiæ* of the Law, superfluous; but the minutest Parts of Law should be intelligible, and practicable. Wherever I have had Opportunity of Observation, this Turnpike Act has, indeed, appeared to be ill understood, and little attended to; many Members of Parliament themselves have a mean Opinion of it: I remember to have heard a very respectable and intelligent Gentleman, now in the House, observe, in the Course of a Dispute respecting a Clause of it, "That the Trustees would have enough to do, if they were bound to reconcile all the Contradictions

' dictions of the Act, and make Sense of its Non-
 ' sense.' With Regard to this Matter of drawing in
 Pairs, from what I have been able to collect by
 comparing the different Clauses relating to it, I
 think it is pretty clear, that Waggons with Nine-
 inch Wheels, drawn with more than Four Horses,
 must be drawn by Horses in Pairs; that Waggons
 with Six-inch Wheels may, by Permission of Trust-
 tees, be drawn with Horses in Pairs; that Wag-
 gons with narrow Wheels must not be drawn by
 Horses in Pairs at all: And that there is no Penalty,
 but the general Penalty of Indictment, for any
 Violation of these Regulations. In this permis-
 sory Clause for Six-inch Wheels, the Act says,
 " Such Waggons, Wains, and Carts, having the
 " Fellies of the Wheels thereof of the Breadth of
 " Six Inches, as shall be authorised to be drawn in
 " any other Manner, by Order of the Trustees of
 " any Turnpike Road within their District."
 What is meant by this Expression, "*within their*
 "*District?*" Is the Order of the Trustees valid
 on all Turnpike Roads whatever, or only on the
 Roads under Cognizance of the Persons who grant
 it? In the last Case, it is little better than an In-
 anity; at least, the Benefit is confined to such Car-
 riages as never quit their own Neighbourhood.
 Stage Waggoners, I fancy, would find it difficult
 to procure Waggons so constructed, as to be drawn
 in Pairs on one Road, and in Length on another.
 The Act says, " Great Damage is done to Turn-
 " pike Roads by Carriages with narrow Wheels
 " drawn by Horses in Pairs." I cannot conceive
 what Damage can be done to any Road by Car-
 riages drawn by Pairs, except destroying what is
 called the Quarter, be esteemed doing Damage;
 and, for my own Part, I cannot but think it a suf-
 ficient and disgraceful Proof of Ignorance, Indo-
 lence, or Peculation, in the Managers of a Turn-
 pike Road, to suffer any Quarter at all. Waggons
 drawn by Pairs are, indeed, more formidable to
 Travellers in Chaises and on Horseback, than
 Waggons

Waggons drawn at Length : A sudden Stroke with the Whip may turn a single Team out of the Road, and preserve Life or Limb, when in imminent Danger ; but a double Team cannot change their Path so instantaneously.

SECTION XIII. Here is another striking Instance of that inconvenient Distribution of Matter, so frequent in this Act. This Clause, so evidently connected with the preceding ones, is removed above Forty Clauses distant from most of them.

C H A P. IV.

SECTION I. **T**HE Directions of Acts of Parliament cannot be too explicit. I have been Witness to several Disputes at Turnpike Meetings, respecting the Meaning of this very Clause. The Words of the Statute are these :
 “ One Half more than the Tolls or Duties which
 “ are or shall be payable for the same respectively.”
 Do these Words relate (have some Trustees said) only to such Tolls as were already imposed by particular Acts passed prior to the passing of this General Act ; or do they extend to such as were to be imposed by particular Acts to be passed in future ? With me it is no doubt, but they extend to Tolls to be imposed by particular Acts to be passed in future : “ Shall be,” clearly implies an Object in Prospect. Besides, in the other Case, the Design of the Legislature, which was obviously the Discouragement of narrow Wheels, could have been only in Part answered. The General Act of 7 G. III. c. 40. repealed by the present Act, precludes all Possibility of Misapprehension in this Matter : It positively says, “ One Half more than
 “ the Toll or Duties which are or shall be payable
 “ for the same respectively, by any Act or Acts of
 S 3 “ Parlia-

“Parliament *made, or to be made*, for making,
“amending, or repairing Turnpike Roads.”

Another Matter, which I have heard canvassed concerning this Clause, was this—Whether by the Words “*Tolls payable*,” is meant the utmost Toll payable by the particular Act, or only the Toll really paid? The enacting Clauses for Tolls in particular Acts are mostly expressed in this Manner: “For
“such and such Carriages, any Sum not exceeding
“One Shilling, or One Shilling and Sixpence,
“*per Carriage*; or any Sum not exceeding Two
“Pence or Three Pence *per Horse, &c.*” as the Case may be: And the Trustees, by Virtue of the Power so given them, fix the Toll at such lesser Sums as they think proper. The Sum mentioned in the Act, is certainly the Sum payable; and the Sum fixed by the Trustees, the Sum really paid. The former must, undoubtedly, be that designed to be raised One Half; otherwise the Purpose of the Legislature might be easily defeated by Trustees prepossessed in favour of narrow Wheels, lowering their Tolls to a trifling Sum before they made the directed Addition. The single Word, *utmost*, prefixed to *Tolls payable*, would effectually have prevented all cavilling on this Subject.

SECTION II. The double Toll on narrow Wheels, by 13 G. III. c. 84. was to have taken Place at *Michaelmas* 1776; but, in Consequence of the Clamours of a few ignorant and avaricious Farmers, was suspended by 16 G. III. c. 44. to *Michaelmas* 1778. This Suspension of the Operation of a Clause, perhaps more essential to the Preservation of the Roads than Half the Clauses of the first mentioned Act, numerous as they are, is excessively provoking. The Legislature are seldom courteous enough to pay Attention to Solicitations for Address of real Grievances; but they were courteous enough in this Case, to yield easy Compliance to the Wishes of a mistaken Few, in Pursuit of an Object equally injurious to the Public and themselves, the peaceable Enjoyment of their be-
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loved narrow Wheels. The only rational Plea I have heard advanced for the Suspension, was this : That the Farmers were not enough apprised of the double Toll taking Place at *Michaelmas* 1776 ; and that the Time between the Publication of the Act, and the Commencement of the said double Tolls, was not sufficient for the Purpose of wearing but their old narrow Wheels, and procuring broader ones. But, in the first Place, I can see no Reason why the Farmers, in 1773, should not be as much apprised of an Imposition of double Tolls at *Michaelmas* 1776 ; as, in 1776, of such an Imposition at *Michaelmas* 1778. Neither the Clause, nor an Advertisement of its Contents, has yet been printed in the News-papers, nor pasted up at the Toll-gates. And, in the second Place, I should suppose a Pair of narrow Wheels pretty much used, could, at the End of Three Years, be of no very extraordinary Value.

The double Toll, whenever it takes Place, will undoubtedly prove, in some Degree, beneficial ; but I do not think it an Expedient adequate to the Business of totally annihilating narrow Wheels : Trustees who favour those destructive Wheels (and such Trustees there are), when their particular Acts are renewed, may have Art and Influence enough to get their Tolls fixed at such Rates, that, even when doubled, they will not exceed the former Standard.

The only effectual Measure to preserve the Roads, is a total Prohibition of all Wheels under the Breadth of Six Inches ; and this Measure I am positive would produce no real Injury to the Community, nor even to Individuals. The Bye-lanes, in remote country Places, it may be said, will not admit the Use of any but narrow Wheels : Let these Bye-lanes then be mended. The General Highway Act has given ample Powers for the Amendment of them. These Powers now lie idle ; a total Abolition of narrow Wheels would necessitate their Exertion ; and thus, by one simple Means,

two good Purposes would be accomplished, the Improvement of the lesser Roads, and the better Maintenance of the great Ones. The Matter of Expence to the Landholders will, of Course, be objected, and magnified into a Mountain : But this Expence is a Tax imposed by the Legislature on Occupation for public Benefit ; and no good Reason can be assigned why it should not, as well as other Taxes, be paid and applied according to its Designation. This Expence also must inevitably be conducive to the Advantage of the Expenders ; a few Pounds contributed towards the Amendment of a Road, will soon be more than repaid by the Preservation of a good Team of Horses. But of the Truth of this Assertion it will, as I have hinted in another Place, be very difficult to convince a Farmer ; and if Interest does not stimulate him to mend his Roads, and ease his Cattle, Humanity I am certain will not. The violent Efforts with which heavy-loaded narrow wheeled Waggon are drawn through deep Ruts, full of deeper Holes, must, one should think, move Compassion in any Spectator ; but a true Farmer views, with the same unfeeling Eye, the Sufferings of unhappy Paupers and unhappy Animals.

Another Objection to the total Abolishment of narrow Wheels would be the general Disgust of the People to the Measure ; “ the Farmer is always oppressed ” (it will be said), “ the Farmer will be ruined.” It is however well known, that, with all its Oppressions, no Country Business is so profitable as Agriculture ; that the Little Farmer is almost a non-existent Character ; and that the Great Farmer is, in general, much less in Danger of Ruin than his Landlord. This Outcry, however, would not be more unjust than insignificant. The Legislature are too well apprised of the complacent Temper of the People to make this Disgust an Excuse for the Non-adoption of any Plan which might be deemed of Utility : In Matters of far greater Importance than that in Question,

tion, they have complained loudly, and then complied without Hesitation. To do the Farmers Justice, provided they were satisfied that this Measure, when once adopted, would be uniformly and strenuously persisted in, without further Alteration, I really do not think they would be very reluctant in their Compliance. Some of the more liberal and intelligent of them I have heard to declare, "That if the Parliament would but fix on any one reasonable Plan, and keep to it, let it be what it might, they should be satisfied; but that such perpetual Alterations as they had for some Time experienced, were inconvenient beyond Expression; for they never knew what they had to do for two Years together."—The Trustees of a Turnpike where I am concerned, having justly a high Opinion of Six Inch Wheels, placed so as to roll Eleven Inches, have lately given Encouragement to Carriages with that Species of Wheels, by reducing the Tolls on them far below the Tolls on other Carriages; the Consequence of which is, that a very considerable Number of them are now in Use on the Road, and that Number is likely to increase: A Proof that Farmers do not always (to use a vulgar Phrase) stand in their own Light.

SECTION III. The Principle on which the Legislature proceed in some Cases, is not readily discoverable. Sometimes one is at a Loss to conceive the End at which they were aiming; and sometimes, when their End is obvious, one can find no Reason for their Choice of the Means that are designed to accomplish it. The Provision in this Clause was, undoubtedly, meant for the Encouragement of Carriages on Rollers. But the Mode wherein Part of that Encouragement is meant to be given, is, at first Sight, equally difficult to be accounted for and understood. That Carriages on Rollers should pass Toll-free for Five Years, is a Direction as simple and intelligible as possible. If further Encouragement was thought requisite,

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one might naturally expect to find, as the next simple and intelligible Direction, that such Carriages should, in future, pass for paying half the Toll imposed on them by particular Turnpike Acts. No, gentle Reader, no such Matter ! this would have been an Order far too explicit. " From and " after the Term of Five Years," they "*shall pass* " *through any Turnpike Gate, or on any Turnpike* " *Road, upon paying only so much of the Tolls and* " *Duties as shall not exceed One Half of the full Toll* " *or Duty payable by this or any Turnpike Act, for all* " *Waggons, Wains, or Carts, having the Fellies of* " *the Wheels of the Breadth or Gauge of Six Inches* " *from Side to Side, or for the Horses, or Beasts of* " *Draught, drawing the same, and not rolling a Sur-* " *face of Sixteen Inches on each Side thereof.*" This curious Clause merits the Honour of a particular Consideration, and shall have it. The Criterion it establishes seems to be this : That Carriages on Rollers are to pay only Half the Toll payable by Carriages with Six-inch Wheels. For what Reason this Criterion was established, and why that of a Carriage on Rollers paying half the Toll appointed by the particular Act for itself, would not have answered the Purpose intended as well, I shall proceed to explain. Most Turnpike Acts impose the Toll, not on Carriages, but on the Horses drawing them, at so much *per Horse*. If we recur to Chap. III. § 1. we shall find that Carriages on Rollers may be drawn by any Number of Horses ; such a Carriage then, with Ten Horses, passing a Gate where *3d. per Horse* was payable, would pay *2s. 6d.* the Half of which is *1s. 3d.* : If we recur to Chap. III. § 3. we shall find, that Carriages with Six-inch Wheels, must be drawn with Six Horses only ; such a Carriage then passing a Gate where *3d. per Horse* was payable, would pay *1s. 6d.* the Half of which is *9d.* The Carriage on Rollers then, if taxed according to the Design of the Act, would pay, instead of *1s. 3d.* the Half of its own proper Toll, only *9d.* the Half of the Six-inch Toll ;

Toll; a very important Difference in its Favour. Thus far the Matter is pretty clear: But there remain Enigmas to be solved, of no very easy Solution. What are we to understand by the Words, *payable by this Act*? Tolls "*payable by this Act*." After a close Scrutiny of its Contents, I have been able to find none, except the additional Toll [which had been much more properly termed Forfeiture] for carrying Overweight, and the half and double Tolls for narrow Wheels, adverted to in the Remarks on the Two preceding Sections; and to these the Words in Question could not bear the least Relation. For an Erratum of the Press, they were rather too numerous; and an Interpolation in a Statute was scarcely supposable. After all, I thought it not quite impossible that they might have some Kind of Connexion with § 5. of this Chapter, respecting Diminution of extravagant Tolls in Favour of Six-inch Wheels; but that Section must come regularly under Notice, before the Mystery can be further unfolded.

The ancient Oracle of *Delphos* was said to give Answers which would admit of some Interpretation, however ambiguous; but the modern Oracle of *St. Stephens* sometimes issues Orders absolutely uninterpretable. The Proviso in the above quoted Clause, that the *Six-inch Wheels must be such as do NOT roll a Surface of Sixteen Inches*, is a most matchless Absurdity: For how Two Six-inch Wheels can be so placed, as to roll a Surface of Sixteen Inches, is, to me, and I should think must be to every Man, totally inconceivable. It has been hinted, that the Meaning of the Clause is not precisely what I have before expressed; but rather, that the Toll to be halved, is not the Toll payable for Six-inch Wheels only, but all the several Tolls payable for Wheals of Six Inches and upwards, such as roll Sixteen Inches excepted.

But this Explication [even if the Words of the Clause countenanced it, which they do not] is worse than the former. The Description, in this Case,

Case, would be chargeable, both with Obliquity and Uncertainty: The Toll payable would be sometimes one thing, sometimes another; sometimes half the Toll of Six-inch Wheels, and sometimes half the Toll of Nine-inch Wheels, as the Trustees were pleased to fix it. On this Plan, also, the Exclusion of Nine-inch Wheels rolling Sixteen Inches, was needless; for as the same Number of Horses are allotted to common Nine-inch Wheels, and to Nine-inch Wheels rolling Sixteen, the Toll of both must be alike; and, consequently, the Toll of the Rollers, if adjusted by either, must be the same; and, of Course, the said Rollers would not be favoured more than the Nine-inch Wheels rolling Sixteen. But that Rollers were intended to be favoured more than Nine-inch Wheels rolling Sixteen, is clear from the next Section, where a different Toll is ascertained for the latter, *viz.* Half the Toll payable for them by the respective particular Act*. It may be said, that I am here mistaken; that the Half Toll of Nine-inch Wheels rolling Sixteen Inches, here alluded to, must be no more than Half of Half the Toll † payable for them by the particular Act; and that, therefore, they were properly excluded, as a Standard for the Rollers. But this will not do; for such an Exclusion must be made on a Principle contrary to the whole Spirit of the Act, which every where aims at the Encouragement of Rollers. Persons designing to encourage the Rollers would not exclude any Standard of Toll that might operate in their Favour. To make Half the Toll of Six-inch Wheels the Standard to ascertain the Toll of Rollers, was favouring them much; but to have

* Vide Chap. IV. § 4.

† That is, supposing the Words, "*Tolls payable by this Act.*" to have any Meaning; in which Case the Half Toll of Nine-inch Wheels, rolling Sixteen, imposed by the particular Act, must be the Toll payable by this Act, and as such, must be halved again.

made a Quarter of the Toll of Nine-inch Wheels rolling Sixteen, the Standard, would have been favouring them more. The Carriage that in one Case paid 9*d.* the Half of 1*s.* 6*d.* [to recur to the Instance before adduced as an Example] would in the other have paid only 6*d.* the Quarter of 2*s.*

After all that has been, or can be, said on the Subject, it is evident, that the Legislature meant to favour Rollers, by charging them with the Half Toll of Six-inch Wheels; but that the Language in which they expressed their Meaning, is clearly convicted of egregious Nonsense.

By Rollers in this Clause, I apprehend is meant Mr. SHARPE's Cylinders; not common high Wheels with Fellies Sixteen Inches wide. There are so few of Mr. Sharpe's Cylinders in Use on the Roads most under my Notice, that I have not had an Opportunity of remarking the Effect of their Operation. On well constructed Roads of firm Surface, in Summer Time, they cannot possibly do Harm; and when Gravel is new laid, they must do Service by rendering it sooner compact and smooth, and consequently of easier Passage to other Carriages. Whether they are guilty of depressing the Roads into Inequalities, and rolling the Dirt before them in Winter (of both which Crimes they have been accused), as I have not examined, I cannot pretend to determine. If they do ever depress a Road, I should imagine that the Fault lies rather in the Constructors and Managers of such Road, than in the Action of the Rollers: Where Water is suffered to rest upon a Road, its Surface will be soon softened, and any Wheels, whether broad or narrow, must destroy it. For my own Part, were I to decide in Favour of any particular Sort of Wheels, I should prefer the Six-inch Wheels, placed so as to roll Eleven Inches; they cannot, like broader Ones, carry Weight sufficient to depress, and they cannot plough like narrow ones. I speak this with proper Deference for Mr. Sharpe's Opinion, who has undoubtedly fully investigated the

the Affair of the different Effect of different Wheels. He is a very ingenious and public-spirited Gentleman, and it was great Pity his noble Plan for bringing Canals from the *Coln* and the *Lea*, to *Moorfields*, did not take Effect. Persons naturally have a Fondness for their own Schemes, and he might promise himself too much; but I am certain, had he succeeded, very great Advantages would have accrued to the Community.

The Carriage of Provisions to the Metropolis would have been rendered easier and cheaper; much Expence in and Oppression of Draught Horses, would have been saved; the City might have had its Sewers frequently cleansed, to the Increase of its Salubrity; and its Inhabitants might have been supplied with fine Water, without implicitly submitting to the Terms imposed on them by the Monopoly of *Islington* *. There is Plenty of Water, I suppose, in the *Coln*, and I know there is Plenty in the *Lea*: The one runs waste into the *Thames* near *Staines*, and the other at *Blackwall*; and a Part of them might as well have been diverted into a new Channel to answer the good Purposes aforesaid. I hope the City will some Time or other resume this Matter, so obviously conducive to its Honour and Benefit, with proper Spirit; and take such Precautions, that it may not be baffled by the feeble Efforts of a few interested capricious or mistaken Individuals.

SECTION IV. The Half Toll here mentioned is indisputably Half the Toll imposed by the particular Act on the Carriage in Question. It is re-

* London has only one artificial River for the Purpose of supplying it with Water. Old Rome had, and even modern Rome has, several artificial Rivers, several noble Aqueducts, brought from very distant Places, continually pouring healthful and beautiful Streams. What Pity it is that a Country so well watered as the Environs of London, this noble Example should not be followed. There can be no Plea in Favour of the New River Water, as being better than other Water, the greater Part of it being supplied from the *Lea*.

markable

markable that, both in the Matter of limiting Horses, and in this Matter of adjusting Tolls, one Kind of Carriages should not be so much as mentioned, and that in the Matter of Allowance of Weight there should be no Distinction made between them and Rollers: I mean Carriages with Wheels of the common Height, and of the Breadth of Sixteen Inches. It should seem, however, to judge from the Words of the Act, that such Wheels may carry the same Weight as Rollers; and to judge from Analogy, that, with Regard to Number of Horses, they stand in the same Predicament with Nine-inch Wheels; and with Regard to Diminution of Tolls, in the same Predicament with Nine-inch Wheels rolling Sixteen Inches.

SECTION V. Here is another oblique Ascertainment of Toll, which, I dare say, has perplexed many a Meeting of Trustees. There would, indeed, have been no Difficulty in the Matter, had the Order been positive and unconditional, *viz.* That in all Cases, where Tolls were payable by so much *per* Horse, a Waggon with Six-inch Wheels, though drawn by Six Horses, as the Act allows, should pay only for Four; and a Cart with Six-inch Wheels, if drawn by Four Horses, as the Act allows, should pay only for three: Or, in other Words, that where the Toll was Three-pence *per* Horse, amounting for a Six-inch wheeled Waggon to 1s. 6d. such Waggon should pay only 1s.; and a Six-inch wheeled Cart, in the same Proportion, 9d. All the Difficulty exists in the Condition: The Mitigation is only to take Place, where the Tolls are high and extraordinary. But by what Persons, or by what Criterion, is the Point to be determined, which Tolls are, and which are not, high and extraordinary? The Act is silent, and has not described the one, nor fixed the other: Trustees, therefore, however they may be *required*, cannot, I fancy, be very readily *obliged* to reduce their Tolls as the Clause directs, provided they do not think it proper to do so.

In my Remark on § 3. of this Chapter, I hinted, that the Words, "*Tolls payable by this Act*," deflected on in that Remark, might possibly have some Reference to this Section. The Diminution of Tolls in Favour of Rollers, was there directed to be regulated by the Standard of Half the Toll payable for Six-inch Wheels *by this Act*, or any particular Turnpike Act. Nothing could there be discovered satisfactory, relative to "*Tolls payable by this Act*," and the Reader was accordingly directed hither for Satisfaction. I take the whole Matter to be this: Where a Toll on Carriages with Six-inch Wheels is adjudged high and extraordinary [who are to be Judges, as before observed, is a Question not determined], and is mitigated according to the preceding Directions, such mitigated Toll becomes the "*Toll payable by this Act*," and by the particular Act, for such Carriages, and of course the Half of it is the legal diminished Toll payable for the Rollers. For Instance: If 3*d.* *per* Horse was [*however unjustly*] deemed a high and extraordinary Toll, 1*s.* 6*d.* the full Toll for a Carriage with Six-inch Wheels, would, when mitigated, amount to 1*s.*; and, consequently, the diminished Toll of the Carriage on Rollers, would be 6*d.* only*. The renowned *Martinus Scriblerus*, in his *Erudite Treatise on the Profund*, mentions a rhetorical Figure, called the Periphrasis, or Circumbendibus; by which a Writer takes the farthest Way, or, as the Vulgar say, goes round about by *Robin Hood's* Barn, to express his Sentiments: I believe the Reader will agree with me, that our Act-constructors are pretty well versed in the Use of this Figure; and have generally taken the furthest Way to discover, or, rather, the most effectual Way to conceal their Meaning. In the

* In other Words, this is a double Reduction: The Toll on the Six-inch Wheels is diminished One Third, and then the Two remaining Thirds are halved; and One Half taken for the Toll on the Rollers.

Affair in Question, a much simpler Method might have been adopted, clear of all Parade and Obscurity. If broad Wheels were designed to be favoured, Six-inch Wheels might have been charged with Two Thirds of their own proper Toll; Nine-inch Wheels, rolling Sixteen, with Half of their own proper Toll; and Rollers with One Quarter of theirs. The First are in Effect, the Second are expressly so charged; and Rollers might as well have been charged so likewise.

After all, I am not sure whether there may not be something behind the Curtain still. The Words of the Act are these: "And whereas, in and by
 " several Acts of Parliament made for repairing
 " and amending particular Turnpike Roads, several high and extraordinary Tolls are granted,
 " and directed to be levied and paid for Waggon, Carts, and other Carriages, drawn by more
 " than a certain Number of Horses or Beasts of Draught, therein respectively mentioned, with
 " an Intent in Effect to prohibit the Passage of such Carriages, and thereby the better to preserve the said Roads." There may be Acts of Parliament where those high and extraordinary Tolls are granted, but I never saw any such; the Constructors of this Act, however, assert, that there are; and they must be supposed to know better than me. There may be Trustees, whose Ignorance or Indolence will not permit them to make good Roads, and who, therefore, have Recourse to every wretched Expedient to preserve their bad ones just passable: Such Trustees may suppose, that if they can but keep all Carriages off their dirty narrow Lanes, except their own Country narrow wheeled Waggon dragged along by Four Horses, they have then effectually done their Business*,

With

* In a particular Turnpike Act, passed about Fifteen Years ago, it is made a Plea for imposing a large Toll, that "the Roads were so much injured by the excessive

With Views of this Kind, it is possible that Acts may be procured, in which a very light Toll may be appointed for Carriages drawn by Four Horses only, and the virtual Prohibition of a very heavy one on Carriages drawn by a greater Number. In such a Case as this, it is evidently the Intent of the Legislature, that the Toll of the narrow wheeled Waggon (however small), should be the real Toll paid by the Six-inch wheeled Waggon, instead of the heavy Toll appointed for it in the particular Act; or, in other Words, if the whole Toll of the narrow wheeled Carriage was 6*d.* that 6*d.* only should be paid by the Six-inch wheeled Carriage, though the proper Toll of that Carriage by the particular Act, should be 1*s.* *per* Horse, or 6*s.* in the whole. Of course, if the Affair of Diminution of Toll for Rollers, has any Reference to this Clause, as before hinted, Half the said mitigated Toll, or 3*d.* only, must be the legal diminished Toll for a Carriages on Rollers.

It is somewhat remarkable, that, if the Constructors of the Statute designed to counteract the Schemes of such Trustees as are above mentioned, they should confine the Exoneration to Six-inch Wheels; for the Clause positively says, “For and “in Respect of such Waggons, or other *wheeled* * “Carriages only, having the Wheels of the “Breadth or Gauge of Six Inches.” It may be

“Weight carried upon the broad-wheeled Waggons, that “they could not be amended and kept in Repair, without “an Increase of the Tolls.” The Road of above Twenty Miles extent lay then, and for some Years afterwards, for the most Part like a Ditch; the heavy Toll has, however, enabled the present Trustees to improve many Parts of it, in a Manner that does them Honour. I must, nevertheless, do the former Trustees the Justice to say, that they did not screen the narrow Wheels, but taxed all alike.

* Quere, Is it common for Carriages to be drawn without Wheels? if not, why this Distinction of wheeled Carriages?

answered,

answered, that Rollers, and Nine-inch Wheels, rolling Sixteen Inches, have been taken Care of already, by the Directions of § 3. and 4. of this Chapter, respecting Half Toll. The Care there taken may be very adequate to the Purpose in the Case of Rollers, as has just been shewn; but it must be very deficient in the Case of Nine-inch Wheels rolling Sixteen Inches, since the simple Half Toll of such might sometimes, as in the Example aforesaid, be pretty considerable, *viz.* not less than 4s. : And as to the common Nine-inch Wheels, they are, and have been all along, left in the Lurch.

I have now said every Thing that has occurred to me on the Subject of this puzzling Clause, and shall leave the Reader to make the most he can of it. I have hunted the Hare of Meaning through many an intricate Doubling, and if she has given me the Slip at last, the Fault is not mine.

SECTION VII. By this Clause, the Benefit of Exemption, or Abatement of Toll, granted by particular Acts to Carriages in certain Cases, is restrained to such Carriages as have Wheels of Six Inches Breadth or upwards; except in Carriages employed in Husbandry, carrying Manure, &c. which may enjoy such Benefit if they have narrow Wheels.

The Constructors of all Turnpike Acts that I have seen, both general and particular, have given much Liberty to Carriages carrying Manure, &c. obviously with a View of encouraging the Improvement of Land. The Improvement of Land is, certainly, an Object of Importance to the Public; but it is equally so to the Individual improving; and one should think there were no Occasion to bribe Men to get Money. Whatever Reason, however, there might be to encourage the Improvement of Land, to encourage it at the Expence of another Object, of so much Consequence as good Roads, surely, discovers no very superfluous Degree of Sagacity. It would, undoubtedly, be a real

Hardship on a Farmer to pay Toll for bringing Dung a few Poles length from his own Yard to his own Fields, or Corn from his own Fields to his own Barn, because, in that Case, the Toll-gate would be an Inconvenience acceding to his Premises, without his deriving an adequate Advantage by passing on the Road: But the Matter is quite dissimilar, when old Rags, Chalk, Lime, Bones, &c. are carried, in heavy Loads, Ten, Twelve, and, perhaps, Twenty Miles, and at once reap the Benefit of the Road and contribute to damage it. A proper Distinction might have easily been made, by restraining the Favour of Exemption (as in Case of driving Cattle to Water, &c.) to such Carriages, loaded with Manure of any Kind, as did not pass more than Two Miles on the Turnpike.

SECTION VIII. This Act of 13 G. III. c. 4. § 25. enacts, that certain Exemptions from Toll, granted by particular Acts, to Carriages in some Cases, shall not be allowed to such Carriages, unless the Fellies and Tire of their Wheels lie flat; and the Act of 16 G. III. c. 39. explains what is meant by lying flat, *viz.* that it is not deviating more than an Inch from a flat Surface. The last mentioned Act says, that “Doubts may arise concerning the Construction of the Provision” in the former Act, [*viz.* that the Fellies and Tire should lie flat] “which, according to the strict Sense of the Words, cannot be complied with.” Now, what should hinder its being complied with, I must confess I cannot conceive. There seems no more Difficulty in making Fellies or Tire quite flat, than in giving them an Inch of Rotundity; I mean according to the common Ideas of Things, and it can hardly be supposed, that those who are to determine on this same Matter of Exemption, will be Philosophers enough to know, that no Work of Art can be perfectly round or square, and come to examine the Edges of a Wheel with a Magnifier. The Affair, however, I suppose, was this: It was apprehended, that Tire, which, when new, was made

made quite flat [according to the common Ideas of Things]. would with Use wear less on the Middle than the Edge, and acquire a Degree of Rotundity that, without the Establishment of some Criterion, would preclude the Carriage from the intended Benefit of Exemption. This Exclusion of the Benefit of Exemption, even if the Provision above-mentioned had remained in Force, would have been a very ineffectual Preventative of the Evil of convex Wheels; and now it is scarce any at all. The Reader of the general Turnpike Acts must, surely, smile, when observing how those whom they mostly affect, are, in some Instances, *compelled* to Obedience, like Slaves, by severe Penalties; and, in others, *inticed* to it, like Children, with a Sugar-plumb.

There is a Clause in the Act 13 G. III. c. 84. respecting this Matter of flat Tire; but is not now in Force, being repealed by the 16 G. III. c. 39. It was, however, much to the Purpose, and runs thus: "It is hereby enacted, that the Tire of
 " Wheels of all Waggon, Wains, Carts, and
 " other Carriages, to be used on any Turnpike
 " Road, shall be countersunk by placing the same
 " upon the Fellies, in such Manner that the Nails
 " shall not rise above the Surface, and that the
 " Sole or Surface of the Wheels shall be quite flat;
 " and that the Owner of every Carriage offend-
 " ing therein, shall forfeit the Sum of Forty
 " Shillings; and every Driver, not being the
 " Owner, the Sum of Twenty Shillings for every
 " Offence *." This coercive Clause might have

* This repealed Clause stands as Law in Dr. Burn's *Justice*, Edition 13th. The Reason, I apprehend, is, because the Repealing Act was not passed, or, at least, had not come to the Author's Notice when that Edition was in the Press. Our Laws are often so evanescent, that as soon as a Writer has taken the Pains to digest and explain them, they become Non-Entities. For the above Reason, Dr. Burn could not mention the Explanatory Clause about flat Tire.

been of some Utility; but the 16 G. III. c. 39. informs us, that the Provisions it contains, were attended with "much Inconvenience;" and accordingly, with an Exuberance of Courtesy for those by whom that Inconvenience was suffered, repeals it. I never was of Opinion, that Roads could be very greatly damaged by the Heads of the Nails on the Tire rising a little above the Surface; neither do I perceive any great Inconvenience can result from their being kept level; but convex Wheels, I am certain, must be infinitely detrimental: I have seen a Sixteen-inch Wheel, the Tire whereof was at least Two Inches higher at one Edge than at the other; and such a Wheel, heavy loaded, in Winter Time, on a Road less hard than a Rock, must form a Channel either for a standing Pool or a little Rill, according as the Ground should be even or descending. Whether the Farmers in general are apprised of the Repeal of the above coercive Clause, I know not; but I apprehend they are not; for many Waggons with Six-inch Wheels, and flat Tire, pass daily on the Roads within my Observation; a Circumstance which shews, in the strongest Light, the Impropriety of repealing a Measure which has been so very readily complied with. In fact, the Irresolution of our Act Constructors, first enacting, and then repealing, first doing, and then undoing, can surely be paralleled by nothing but the capricious Conduct of an Infant among his Play-things; first setting one here, and another there, and then instantly changing their Situation; or taking much Pains to build Card-houses, on Purpose to throw them down. One cannot, however, rationally suppose these perpetual Vicissitudes of the Law to proceed merely from innate Mutability of Disposition in the Law-makers, without some external Motive; but if such Motive does exist, it is not easy to say what it can be that proves so suddenly effectual in its Operation. Perhaps, when a Statute makes any petty Innovation in the established Economy of the Consumers of Whalebone and Whipcord, some of the most re-

solved

solved and intelligent [*alias* ignorant] of the Fraternity met in Council at the *Blue-Bear*, or the *Black-Lion*, investigate the Scheme, and determine to prevent its Adoption. Out of the Sum total of these Gentlemen's Landlords, One or Two may, undoubtedly, be found, who have Seats in Parliament; and these of Course must be the proper Persons to undertake the Business of Redress. To these, accordingly, heavy Complaints of the Grievance are proposed, attended with every exaggerating Circumstance, true or false, that can be invented; and enforced at last with a few oblique Menaces, that if Satisfaction is not obtained, the Favour of their Votes at the ensuing Election may be solicited in vain. These, to be sure, are Arguments irresistible; a Bill must be at all Events brought in, to repeal the offensive Article; and whatever Importance this Bill may be of to the Roads, it can be of no Importance to the Concerns of the Turf or the Gaming-table, and will probably be hurried through with little, if any, Examination of its Contents or Tendency.

SECTION XIV. This Clause was very necessary; a Farmer will cheat the Toll-gate if he possibly can. There are many Situations in which this Scheme of saving Toll, by carrying several little Loads through the Turnpike in One Day, might take place. I know a Gate where a broad-wheeled Waggon pays 2 s. 8 d. about two Miles from a large Town, where much Corn is stored in Granaries. A Carrier, disposed to evade this Toll, might fasten a Cart behind his Waggon, stop on the further Side of the Gate, set up his Horses at an Ale-house, put one of them to the Cart, load it, and pass the Gate four or five Times a Day for a single Groat.—I know another Gate, where a narrow-wheeled Waggon pays 1 s. 6 d. and a single Horse Cart 2 d. The Farmers, in that Part of the Country, instead of bringing a large Load of Wheat or Barley to Market at once, make it a common Practice to come twice or thrice a Day

with one of these little Carts, on Purpose to avoid paying Toll for a Waggon. The penal Clause of the above Section, in the first Instance, would answer its Purpose very well; but, in the Second, can be of no Effect.

C H A P. V.

I Have rather, contrary to my own Opinion, followed the Arrangement of the Act, and placed this Clause here: But as I was puzzled in what Chapter to include it as a Section with most Propriety, I have made it a Chapter by itself.

Notwithstanding the Words "nothing herein before contained," in the Body of the Clause, and notwithstanding the Marginal Note says, "Carriages to which the Act does not extend," I should apprehend, that, so far as regards what are commonly called Heavy Carriages, as Waggon, Carts, &c. nothing more is meant than an Exemption from the Restrictions of the Acts respecting the Limitation of Horses [Chap. III.], and an Exemption from the Test of the Weighing Engine: The first Exemption, indeed, of Necessity requires the Second; for it would be the Height of Absurdity to allow supernumerary Horses to carry a Weight already ascertained, and proportioned to a limited Number. An exempting Clause, which removes Restrictions as to Number of Horses, must naturally remove Restrictions produced by the Regulations of the Act concerning the Drawing in Pairs: But I must own myself quite at a Loss to tell whether the Clause under Consideration has any Thing to do with Tolls, particularly whether it was meant to relieve narrow wheeled Carriages when loaded with Ammunition, a Block of Stone, a Cable, or an enormous Piece of Timber, from the additional Half Toll and Double Toll imposed by

by this Act. It is pity, in a Statute, many Parts whereof are profuse in needless Verbosity, a few Words had not been added to make the Matter explicit. The General Highway Act on this Affair of Exemption [though there was less Occasion to be particular, on the Account that Tolls and Weighing Engines are quite out of the Question], is less penurious of Expression, and leaves no Room to doubt its Meaning: "Provided also, that
 " the Regulations herein before mentioned, concerning the Number of Horses and the Wheels
 " of Carriages, shall not be deemed or construed
 " to extend to Carts, Waggon, or other Carriages employed only in carrying any one Stone,
 " Block of Marble, Cable Rope, Piece of Metal,
 " or Piece of Timber, or to such Ammunition or
 " Artillery as shall be for his Majesty's Service." Indeed that Act is on the whole expressed in much better Language than this General Turnpike Act of 13 Geo. III. c. 84.

"*Chaise Marine, Coach, Landau, Berlin, Chariot, Chaise, Chaise Calash, or Hearse:*" It is difficult to repress a Smile at this very particular Enumeration of Vehicles for Conveyance of the Human Body, which some may think would have appeared with more Propriety in a Coachmaker's Advertisement than in a Statute. The Act of 7th Geo. III. c. 40. had an additional Article, *viz.* any Caravan, or covered Carriage, of any Nobleman or Gentleman, for his own private Use. The Omission of this in the present Act is not easy to be accounted for: If the Clause was meant to extend to an Exoneration from Payment of Additional and Double Toll on Carriages of Burden, the Act Constructors seem for once to have been inattentive to the fashionable Principle of Self-saving. What these Caravans are, I am not quite certain; but I rather apprehend they are a Kind of long Trunks upon Four Wheels, designed for the Carriage of Provisions. If this be the Case, the Persons who framed the aforesaid Act of 7th Geo. III.

c. 40.

c. 40. were a little illiberal in confining the Advantage to the good Eaters of their own Rank, to Noblemen and Gentlemen: Their Predecessors, the Framers of a yet older Act, were of a much more philanthropic Disposition, and granted the Benefit of Exemption, in certain Respects, to Waggons, Carts, and other Carriages, loaded with Cheese and Butter for the Use of the Community in general. The Framers of some of our particular Turnpike Acts, seem not to have adverted to the Impropriety of enhancing the Price of Edibles, by the Tolls they impose on Drovers of Oxen, Calves, Sheep, Lambs, &c. they have indeed, as far as I know, had the Consideration not to tax those devoted feathered Legions, which at certain Seasons of the Year bespread the Surface of the Roads in their Way to the all-devouring Metropolis.

Of several of the Contrivances for Carriages above enumerated, it perhaps would now be difficult to find a Specimen in the Lumber Lofts of *Long Acre*, and even the Names of some of them are become obsolete. If we make no Allowance for Intention, but adhere strictly to Form of Words, notwithstanding analogy of Use, it is by no Means clear that their Successors, the Machine, Fly, Diligence, Post-Coach, Post-Chaise, Vis a Vis, Phaeton, Curricule, and Tim Whisky, are intitled to Benefit of this Exemption.—I have been told of a Gentleman who claimed Exemption from the Wheel Tax because his Carriage, which was brought from abroad, had no English Denomination: I did not hear whether his Claim was allowed; but I think there is little Reason to suppose that it was. I was, for some Time, at a Loss to discover what Occasion there could possibly be for the excepting Clause, which is the subject of this Remark, so far as regards what are termed light Carriages; at last there appeared to be this: In the Clauses respecting Weighing Engines, Limitation of Horses, and Imposition of Additional and Double

Double Tolls, there is Mention made of Waggon, Wains, and Carts, with the comprehensive *Et Cetera* of *other Carriages*: Now, without this excepting Clause, it might have been supposed that the *Et Cetera* had included Coaches, and the other Vehicles above particularised. Some may think that, after the Mention of Waggon, Wains, and Carts, the general Term, *other Carriages*, had been as well omitted, and the specific ones, *Dray*, and *Timber Carriage*, substituted in its Room: A Plan which would have rendered quite unnecessary the Introduction of the foregoing Catalogue of Leathern Conveniencies.

A Restriction of the Number of Persons carried in and upon Stage Coaches, has often been proposed as Matter requiring the Attention of the Legislature. The Propriety of providing something of this Kind, is plainly demonstrated, both from the Injury occasioned to the Roads, and the frequent Accidents that happen to the Passengers. I should apprehend, that a Coach, however heavily laden, from the Rapidity of its Movement, and the Uncertainty of its Track, cannot do Half the Damage that is done to a Road by a Narrow-wheeled Waggon with much lighter Loading; but still some Damage it must do; and if People have not Sense enough to take a rational Care of their Lives and Limbs, I think such Care ought to be taken for them. The subjecting of Stage Coaches to the Test of the Weighing Engine, with an Infliction of heavy Penalties in Case of Excess of Weight, might possibly prove too inconvenient a Measure to be adopted; but it may be easily demonstrated that the Weights they sometimes carry are enormous. I have myself told Twenty-six or Twenty-seven Persons within and without Side of a Coach, and I have heard that Thirty is no unusual Number: Now, taking Thirty Persons, with their Luggage included, at Ten Stone, Horseman's Weight, each, on an Average, which is certainly under-doing the Matter, the Sum Total

tal of Loading will amount to Thirty-seven Hundred, to which may be fairly added, of extra Parcels, sufficient to compleat the Two Tons, which will be one Ton only under the Winter Lading of a Narrow-wheeled Waggon. Some Expedient surely might be hit on to accomplish the desired Purpose in this Matter : That of limiting the Number of Persons is obvious, and I should imagine liable to no valid Objection.

CHAP. X.

SECTION X. **T**HE Words of the Act are here very curious : *Viz.* “ Shall suffer any *Waggon, Wain, Cart, or other Carriage*, to be drawn, or pass on any Turnpike Road within the View, or with the Knowledge of such Gate-keeper or Toll-gatherer ; or to pass through any Toll-gate, or Bar, *with any greater Number of Beasts of Draught, or with any CARRIAGE constructed or drawn in any other Manner than is before directed :*” That is to say, shall “ *suffer any CARRIAGE to be drawn, or pass with any CARRIAGE, &c.*” Oh, poor Priscian ! or rather, poor Common Sense ! what repeated Acts of Violence hath thy Head sustained, from the Constructors of this very extraordinary Statute !

CHAP. XI.

SECTION I. **T**HE Surveyor, *with the Approbation of the Trustees, shall and is hereby required to contract.*] There is a Clause of similar Import in the General Turnpike Act, on which I have remarked in my Digest of that Act. I must frankly

frankly own, I do not conceive the Intent of these Clauses. If they mean no more than a Liberty to contract, they are mere Inanities; for the Surveyor, at least the Trustees, had that Power before they were in Existence. If they mean Coercion, a positive Injunction to contract, I have no Opinion of their Utility. Contracts, properly considered, promise nothing in point of Œconomy. Contracts cannot be made with a View of having Labour done cheaper than it otherwise would be done, for Men will work as cheap for one Person as for another. If they are made with a View of having more Work done for the same Money, by the Labourers being kept closer to their respective Occupations, the Contractor will be sure [and not be to blame neither] to be paid for the Trouble taken in keeping them so. The Business might as well, therefore, be done by the Surveyor, who might be paid for his extra Attendance out of the Money which would otherwise go as Profit to the Contractor.

I have had some little Concerns in the Management of Roads, as a Trustee; and I flatter myself, the Improvements I have superintended, have been executed as well, and as cheap, as they would have been in any other Manner: And yet I never made, or never was concerned in making, any Contract with any Person. Contracts, however, are fashionable Things; and it is no Wonder if they occupy the Ideas of many of our Senators.

Respecting giving Notice of making these Contracts, the Act says, " That the Surveyor is required to contract for the getting and carrying thereof [*viz.* the Materials], *at some Time and Place to be fixed for that Purpose, of which Ten Days Notice in Writing shall be given*, by fixing the same on the Door of the Church or Chapel of such Parish, Township, or Place; or if there be no Church or Chapel, at the most public Place there; which Notice shall specify the Work to be done, and the Time and Place for
" letting

"*letting thereof.*" This is the Language of the Statute, *verbatim*. The Relative *SUCH* always supposes an attendant Substantive; the Words *such Parish, &c.* must naturally incline one to think some Parish had been mentioned before; but he who searches the Clause to find one, will search in vain: And that "Ten Days Notice is to be given of the Time and Place of letting the Work; and then, that such Notice must specify the Time and Place of letting it," is double doing the Matter with a Witness.

C H A P. XII.

SECTION I. **T**HIS Restriction of the Performance of Statute-duty to the Parish where such Duty belongs, might be well intended, as founded on a Principle of Equity; but there are Cases, in which it may prove both inequitable and inconvenient. A Market-town, or other considerable Parish, whence much Duty arises, and much Traffick in a particular Turnpike Road proceeds, may, nevertheless, have scarcely a Mile of such Road within its Precincts; while another Parish, with much less Duty and much less Traffick, may contain a double or treble Proportion. An Instance of this Kind has come under my Cognizance. A full Quota of Duty, *viz.* a Third of the Whole, was demanded by the Trustees: the Parish objected, that it was not wanted, nay, could not even be employed with Propriety. The Objection was, indeed, just, so far as regarded Team-duty in Kind, the Application of which would have been just at that Juncture superfluous. But had the Expedient suggested in my Digest of the Highway Act, been adopted by the Legislature, *viz.* that of substituting a pecuniary Rate instead of Statute-duty, a Third of the Money raised by such Rate, in the Case

Case in Question, might, with the utmost Propriety, have been employed in repairing the Footpaths of the Town, which were in a most ruinous Condition; in removing Nuisances of Water, &c. and otherwise preparing the Road for that Sort of Amendment in which Team-duty is chiefly of Service, the covering it with Ballast.

A Series of recent Observations have fully convinced me of the Necessity of abolishing the Statute-duty, and supplying the Place of it with a pecuniary Assessment. Parishes who wish to evade Exertion of the Duty, avail themselves of a few relaxing Words in the present General Highway Act, viz. "Six Days in every Year (if so many Days *shall be found necessary*)," to evade it just as much as they please. A Parish, whose Management I have sufficient Opportunity of observing, have, for several Years, pretended to do only Half the Six Days Duty; and that nominal Half is, I apprehend, scarcely half done: Notwithstanding that the full Duty, performed in the best Manner, would not be at all adequate to the Purpose of putting the Roads into proper Condition. If the Parliament were to fix a Sum to be assessed on Occupation, at so much in the Pound, and order it to be levied, as in the Case of the Land-tax, without Exemption, and direct it to be employed in a proper Manner, I doubt not but a very great Alteration of the Highways for the better, would soon be evident.

C H A P. XIII.

SECTION II. "WHERE Parts of Highways
 " or Turnpike Roads." From
 this Mode of Expression, the Clause seems not
 to confine itself to Turnpike Roads, but to include Highways, turned by Order of Justices under

der Sanction of the Highway Act. I have no Opinion of these Obligations on private Persons to repair Roads by Tenure *. I am positive they produce far more Disadvantage than Advantage to the Public, and, consequently, I wish they were all abolished. Except here and there a spirited Gentleman, who may take Pleasure in serving the Community, Persons obliged to repair or maintain, will repair or maintain in a Manner the least troublesome and expensive possible. Most of Mankind have a strange Aversion to do what they think ought to be done by another; and if the Individual neglects his Duty, Parishes and Trustees will not perform it for him; but probably make his Omissions an Excuse for their own. If a Piece of Road, liable to Maintenance by Tenure, is impassable, the Parish Surveyor, or the Trustees, will remove the Blame from themselves, and say, "It was none of their Business to amend it, but the Business of Mr. Such a One." And thus Avarice, Pique, and Indolence, will often co operate to the Production of Evil. Persons liable to repair as aforesaid, some may say, may be compelled to their Duty by Indictment; but every one knows the Light in which an Indictor is commonly viewed, viz. as a litigious Neighbour; and out of an Hundred indictable Circumstances, I believe, I may safely say, Ninety-nine pass unindicted.

C H A P. XVI.

THE Trustees of any Turnpike Road, or any Five of them, at a public Meeting, may, and are hereby impowered, if they think fit, to direct Prosecutions by

* An ingenious Gentleman, Mr. Bayley, who published in 1772 a Pamphlet called, Observations on the Highway and Turnpike Acts, differs little from me in his Sentiments on this Subject.

Indictment,

Indictment against the Offender or Offenders, for any Nuisances done, committed, or continued, in or upon any of the Turnpike Roads under their Care, &c.

There are some Kind of Nuisances declared such by common Law, and not only punishable by Indictment, but seemingly removeable by any Individual at Pleasure. Dr. Burn, from *Hawkins*, speaks as follows: "It seemeth to be certain, that
 " any one may pull down, or otherwise destroy,
 " a common Nuisance, as a new Gate, or even a
 " new House erected in a Highway, or the like:
 " for if one, whose Estate is or may be prejudiced
 " by a private Nuisance actually erected, as a
 " House hanging over his Ground, or stopping his
 " Lights, may justify the entering into another's
 " Ground, and pulling down and destroying such
 " a Nuisance, whether it were erected before or
 " since he came to the Estate; it cannot but follow, *a fortiori*, that any one may lawfully destroy a common Nuisance. And as the Law is now holden, it seems that in a Plea, justifying the Removal of the Nuisance, a Man need not shew that he did as little Damage as might be."

1 *Haw.* 199. *Burn's Justice*, Vol. III. p. 219. Edition 13. And again, "There is no Doubt, but that whoever is convicted of another Nuisance, may be fined and imprisoned; and it is said, that one convicted of a Nuisance done to the King's Highway, may be commanded by the Judgment to remove the same at his own Costs." *Haw.* 200. St. 886. *Burn*, Vol. iii. p. 221. Edit.

13.

The Situation of our Roads in Towns and Villages is the standing Opprobrium of the Nation. In some there are so many Turnings, that one might suppose they were rather designed as Labyrinths to perplex Curiosity, than as convenient Avenues to invite Access, or facilitate Progression; and a Traveller, who is acquainted with the Horizontal Direction of Places, on viewing the Situation of the Sun, or inspecting his Pocket-compass,

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will

will often be astonished to find himself returned a considerable Number of Yards towards the Stage from whence he came, instead of being so much further on his Journey. In some he must do Penance by wading through dirty Water to the Knees of his Cattle and the Axle of his Carriage * ; and in others he will see the Way so confined on each Side with Houses, that he must naturally conclude those Houses were built by Persons who knew no Mode of Carriage, either for themselves or their Goods, but on the Back of a Pack-horse, nor had an Idea that any other Mode would ever be adopted. If a Waggon happens to be unloading, it occupies the whole Extent of Passage ; and the most impatient Person must exercise the Virtue of Patience *per Force*, till it can be unloaded. But however narrow many Streets may be, they are often made narrower by Encroachments, which Trustees of Turnpikes are by no Means sufficiently vigilant to prevent. Our Ancestors, willing to appropriate to themselves as Individuals, as much Space as possible, without entirely prohibiting Egress and Regress to the Public, were wont to set the Foundation of their Buildings on what they termed their own Ground, and to project the Floor of their first Story a few Feet beyond it, and the Floor of the second Story in a similar, or perhaps greater Proportion further. This newly acquired aerial Property, which, as no Body particularly suffered by, no Body disputed their Title to, their Successors have fixed on a firmer Foundation, by taking down the Wall of their first Story, and erecting a new one to receive the Ends of their

* This is the Case in the Town of *Ware* in *Hertfordshire*. on one of the great North Roads, where a Body of Water is let down several Times in a Week to wash the Town. This, though an intolerable Nuisance to Travellers, is regarded by some of the Inhabitants as a peculiar and inestimable Advantage ; I suppose, because their Fathers thought it so. Notwithstanding their Opinion, I hope this Nuisance will be soon removed.

Joints.

Joists. This Inroad upon the Rights of the Community passing unnoticed, the next Generation has made another, till perhaps Five or Six Feet of Room has been abstracted from a Highway, where Eight or Nine more has not been remaining. Incroachments of this Kind, when so recent as to admit of indisputable Proof, I apprehend to be such Nuisances, as, according to the Doctrine of *Hawkins*, from Dr. *Burn*, any Person has a Right to remove by destroying. Prevention, however, in this Case, as in many others, is preferable to Cure; and I must esteem every Turnpike Trustee, and every Parish Surveyor, highly deficient in his Duty, who does not keep a watchful Eye on Attempts of this Sort; and, as he has undoubtedly Authority to do, obviate this Accomplishment. But not only the Erection of new Buildings should be guarded against, but the Removal of old ones is in many Cases absolutely necessary; and, in this Circumstance, there is, in general, a lamentable Deficiency of Power. All the particular Turnpike Acts which I am acquainted with, have a restricting Clause, prohibiting the Trustees from injuring any Dwelling-house, or its Appurtenances, as Out-houses, Gardens, Orchards, &c. on any Account whatever. Whether these Clauses are put in by the Trustees themselves, on the Principle of Self-security, or whether they are added to the Bills in their Progress through the House, on the Principle of not confiding to any Man a Power over the Residence of another, I cannot pretend to determine. I never was yet concerned in the Construction of an original Act; and old Acts are commonly renewed in the old Form, without regard to any Thing of this Nature. Be this as it may, when Persons are so capricious, obstinate, or illiberal, as to prefer the Possession of a few Feet of Ground, to the Safety of the Lives and Limbs of their Fellow Creatures, I think the Law ought to interpose, and oblige them to relinquish, for a valuable Consideration, what they will not voluntarily

rily bestow ; especially as, in almost every Case, for that Consideration, they may obtain a Situation full as eligible as their former.

A Jury is intrusted to decide on Matters of Property in general, and even on Life itself ; and why the Value of an old House, Barn, Stable, or Malt-shop, &c. should be sacred from a Jury's Decision, is a Question which I must own I cannot answer.

Particular Turnpike Acts always invest a Jury with Power over Land. In some Circumstances, from Matter of Convenience, &c. Land is very valuable ; yet a Value adequate to it, in any Circumstance, has always been supposeable ; and I cannot see why a Value adequate to Houses, &c. should not be supposeable likewise. Some Persons who have repaired or rebuilt Houses, at a great Expence, in narrow dirty Streets, however they might have been displeased at first, I fancy would have been pleased afterwards, if the Law, by taking Part of their Ground for public Use, had forced them to a better Choice of Residence. A Plea may be made in Favour of Shops, viz. the Importance of particular Situations to Trade ; but this might be over-ruled by obliging Trustees, after widening the Road, to rebuild them as near the ancient Site as possible.

This Power over Buildings ought always to be used with Prudence and Moderation : Indeed, as a Jury would be concerned, there could be no Reason to fear its being used improperly or wantonly, but rather just Reason to fear that, for the most Part, it would not be used at all. The Trouble of summoning a Jury would operate with the Indolent ; and an Aversion to touching their own Copyhold, with the Interested ; till, after a needful Alteration had been talked of, from Year to Year, it might remain *in statu quo, ad Calendas Græcas*. Where Trustees are fully invested with the Power of Alteration, where nothing but Fields and Hedges are in the Way, we too often find this
to

to be the Case : When short and dangerous Turnings among crowded Houses might be avoided, and the double Object of a strait Line and shortened Distance, be obtained, by quitting the old Highway and making a new One, some Obstacle or other is almost sure to intervene and prevent : This Trustee's, or his Friend's, or Relation's Land, must be cut through ; or that Trustee's, or his Friend's, or Relation's Inn or Ale-house, on the old Road, will be deprived of its Custom ; and these are Objections totally insuperable. A Road, in my Neighbourhood, was made Turnpike about Twenty Years ago : It was proposed, in one Place, to leave the old Track (which was a hollow winding Wash-way), and to cross some Fields in a direct Line ; the Proposal was highly rational, but unluckily there were Six or Seven little Trees, that would scarcely measure as Timber, at the further End of the Line : These belonged to a Gentleman whose *Fac Totum* was a Farmer, and an active Trustee of the Road : It was worse than Sacrilege to touch these *fine young thrifty Sticks* ; and the Traveller has now the Mortification of viewing, from one Hill, the Road on the Ascent of another, at Right Angles with the Entrance on a Semicircle, which he must describe before he can get at it. Indeed, on these and many other Occasions, with regard to Roads, Interest writes a very legible Hand. If a Person sees a Road in general wide enough, and here and there scarcely passable by a Man with a Bundle of Straw at his Back, or at most by a Narrow wheeled Waggon, he may read as clearly as if it was wrote on a Board by the Way Side, "The Land here belongs to some
 " *little Great Man*, or to his particular Acquaint-
 " ance ; it will not be given, and dare not be ta-
 " ken : Or else, the Trustees here are ignorant
 " and negligent, they think what has not been
 " done it is impossible to do, and will not so much
 " as ask, what might be had at once on asking
 " for." If a Road is in general well constructed,

but a few Miles here and there are found full of Mud or Water, or perhaps laid slanting from one Side to the other, like the Slope of an old-fashioned Garden Terras, as if on Purpose to overturn Carriages ; the Interpretation of the Matter seems sufficiently easy : “ This Piece of Road is either
 “ farmed or surveyed by Mr. *Such a One*’s Depend-
 “ ant, who must somehow or other be provided
 “ for, and is therefore quartered on the Publick ;
 “ or else by the Ale-house Oracle of *such a Place*,
 “ who is a *great little Man*, and can make Half a
 “ Score, or at least Half a Dozen, Votes on an
 “ Emergency :” Or, if this Guess should be wrong, the Second will hardly fail of being right :
 “ This Piece of Road is the Hobby-horse of some
 “ particular Trustee, which his Brethren indulge
 “ him in riding, though he must be conscious he
 “ does not know at all how to manage it.” From these, and similar Considerations, it may seem absurd to wish for an Addition of Power, when that which is already existing is so frequently unused ; but it is surely unreasonable the Trustees, who would do much, should have their Hands tied, because others will do nothing *.—But to return

* In the great Turnpike Road between *Ware* and *London*, there are three very abrupt and dangerous Turnings ; two of them are in the Jurisdiction of the *Chestnut* Turnpike, and the third in that of *Stamford Hill*. The first is occasioned by a Bend of the New River, which runs parallel with the Road ; this Spot the Trustees design, if possible, to improve : The second, which forms almost the Figure of a capital S, is produced by Houses : Some Attempts have been made here to obtain a strait Line. A House which stands in the Way might have been had ; but the Proprietors of Two Orchards, which it was necessary to cross, would not consent to the Measure ; and over Orchards, as I have before hinted, the Trustees have no Power. As to the Third, I am not so well acquainted with the Circumstances relating to it ; but, if no Obstacles of the Kind last mentioned exist, it seems to me, on a cursory View, that a strait Line is easily attainable.

from this Digression to the Subject of Nuisances. Some particular Turnpike Acts have Clauses which declare all Water-courses, Sinks and Drains, running in or upon any Part of a Road, Public Nuisances, and give a Power to remove them in a summary Way. A Clause of this Kind should have been inserted in the General Act to supply the Deficiency of such particular Acts as are defective in this Respect. No Nuisance is more frequent or more offensive than the above mentioned: The Inhabitants of Towns and Villages almost universally make a Common-sewer of the Highway, and that often, when their Water might be turned backwards with a Trifle of Expence or Trouble.

Trees and high Hedges are real Nuisances, and are, in some Measure, declared so by Law: "It seemeth clear," (says Dr. *Burn* from *Hawkins*) "that it is a Nuisance at Common Law to suffer the Boughs of Trees, growing near the Highway, to hang over the Road in such a Manner as thereby to incommode the Passage." 1 *Haw.* 212. And "perhaps, it is the better Opinion, that he who hath Trees next adjoining to the Highway, and hanging over it to the Annoyance of the People, is bound by the Common Law to lop the same; and it seems clear, that any Person may justify the lopping such Trees, so as to avoid the Nuisance." 1 *Haw.* 213. This, however, is going but a little Way. There is no Clause in the General Turnpike Act for Removal of Trees or cutting down Hedges; but there is a Clause which enables Trustees to apply the Powers of the General Highway Act for *those* Purposes; and *those* Powers, as I have remarked in my Digest of that Act, are pretty extensive. Some particular Acts have very full Authorities on this Head. I know one which prescribes a summary Method of removing all Trees from the Sides of the Road, Timber Trees (which some Acts hold sacred) not excepted. Considering that no Road can possibly

be good under the Shade of Trees, and considering, that although Powers to remove them may be given, various Causes (as Interest or Caprice of Trustees, &c.) may prevent those Powers from being exerted, there ought to have been a strict prohibitory Clause in the General Act, by which no Tree of any Kind should be permitted to stand in or by the Side, or within Sixty Feet of the Centre, of any Turnpike Road whatever *. Trees are highly ornamental to a Country; but they should be planted in proper Places, and not where they Occasion an almost intolerable Inconvenience. In Hot Climates they must be equally agreeable and useful, equally pleasant to the Eye and relieving to the Sense of the Traveller; but the Error of our Climate is not Excess of Heat but Excess of Moisture. In an old repealed Statute there is a curious Clause respecting Hedges, &c. by Road-Sides: "In order to prevent *Robberies*, it is enacted by the 13th *Edw. I.* St. 2. c. 5. that Highway leading from one Market Town to another, shall be enlarged, so that there be neither Dyke, Tree, nor Bush, within 200 Feet on each Side the Way, except Ashes and great Trees: And if by Default of the Lord, that will not avoid the Dyke, Underwood, or Bushes, any Robbery be done therein, the Lord shall be answerable for the Felony; and if Murder be done, the Lord shall make a Fine at the King's Pleasure. And if the Lord be not able to fell the Underwoods, the Country shall aid him. And if a Park be taken from the Highway, it is requisite that the Lord shall set his Park 200 Foot from the Highways; or that he make such a Wall, Dyke, or Hedge, that Offenders may not pass or return to do Evil."—The Removal of the Underwood 200 Feet from the Sides of a

* The Trustees should be vested with unlimited Power to remove all such Trees, and subjected to a Penalty for not exerting it.

Road must certainly be of Use to the Public, by destroying the Harbour of Highwaymen: But still those said *Ashes and Great Trees*, although exculpated of Connivance with Theft * that must very soon steal away all the Amendments bestowed on the Highway by the Lord and his Villains. How well the above Law was regarded in the Matter of Parks, is obvious at this Day, when a low rotten Pale, overhung with spreading Trees of the Growth of many a Century, is often seen to confine a Road to the Width of Six or Seven Feet for Miles together. Parks are not commonly mentioned by Name in particular Turnpike Acts among those Articles of Property which must not be meddled with for widening of Roads; but, I suppose, they are generally held inviolable. The Proprietors of Parks, in the Circumstance above mentioned, would do themselves great Honour, by giving a few Yards of their useless Ground to accommodate the Public. To judge from Appearances one should really suppose, that Trustees, in general, esteemed Trees by a Road Side no Nuisance, but a Benefit. Wherever I have travelled, in any inclosed Country, I have found Twenty Times the Number there ought to have been. On the *Stamford Hill* Turnpike, between *Edmonton* and *Ponders End*, the Road is laid on a good convex Plan; but it is by much too narrow, and is shamefully shaded by Rows of high Elms, several of which stand in the Road itself, and consequently I think must be the Property of the Trustees. Some of these Elms have lately been cut down, and all of them should be. There are Nuisances of a still different Species, and more temporary Nature, not uncommon on Turnpike Roads: Such are the holding of paltry Fairs, and the running of paltry Horse-Races. There are effectual Means of removing these: The Trustees may apply to the

* *Viz.* the Water.

Quarter Sessions of the County for an Order to suppress the former, and may prosecute for the Penalty imposed by the Statute on the latter. I some Years ago annihilated a very flagrant Nuisance of the first mentioned Kind, by the Means here proposed: A Portion of a great Turnpike Road, of about a Furlong in Extent, was wont to be occupied once a Year by a Mob, almost literally verifying the Hyperbole of standing on one another's Heads, and rendering the Way impassable to Travellers. I procured a Petition from the Parish to the Quarter Sessions, requesting their Assistance. The Magistrates cheerfully granted an Order for the Peace Officers to attend and disperse the People, and the Inconvenience was removed at the trifling Expence of a few Pounds. Those Kind of Fairs are a Nuisance to the Community in general, as productive of Idleness, Intoxication, and Debauchery; but if they *must* be held, surely they should be held on Commons, Greens, and such sequestered Places, and not to be suffered to pester the public Highway. A Clause in the General Highway and Turnpike Acts, prohibiting such Fairs, Races, &c. and enacting a summary Mode of Punishment, would at once have reminded Parish Surveyors and Trustees of their Duty, and enable them to perform it with Facility.

C H A P. XVIII.

SECTION II. **T**H E S E graduated Posts are a miserable Substitute for Bridges. In the Dark, they can be of no Service; and, in the Light, they may sometimes induce Strangers, depending on the Depth specified by the Gradations, to ford Waters, with the Strength of whose Current they are unacquainted, at the Hazard of their Lives. Water in Roads, is the worst of Nuisances;

fances; and yet, to judge from Appearances, one might suppose that our Ancestors had very different Ideas; though I must own, I rather apprehend that it was chiefly from a Principle of saving Charges, that they made every Hollow between Two Hills serve the double Purpose of a Water-course, and a Highway. It is really astonishing to think, how slowly the contracted Notions of the last Century have been resigned, and how little a Way the Managers of Roads have looked about them, with a View to Improvements. I know an Instance wherein a dangerous Water crossed a Road twice, within the Space of about Two Furlongs, for no Purpose in the World but to run in a deep Channel on one Side of it, which I imagine had been the old Highway before it was made Turnpike. This Water sometimes rose so high as to stand more than a Foot deep on the Surface of the Road between the Crossings; at one of these Crossings a Bridge had been built for some Years; and as the other, at the Times above-mentioned, was utterly impassable, a Contract was actually made for building a Bridge there also. On a Survey made by some Gentlemen of the Trust, it clearly appeared, that even the first Bridge was unnecessary; and that the Road might be made both straiter and wider, and the Water prevented from ever crossing it, or even entering on it at all, solely by digging a new Channel on the opposite Side. This Scheme, after mature Consideration, was adopted; the Contract for the Bridge was vacated; and the Work completed in the Course of the last Summer, in a Manner which does equal Honour to those who planned, and those who executed it. The Gentlemen of *Stamford-Hill* Trust had long a very dangerous Water on their Road, between the Tenth and Eleventh Mile-stone; I passed it once myself about Ten Years ago, with no small Risque. They have now erected an occasional Bridge, and raised the Surface of their Road in the Place where it used to be overflowed, I believe above the reach of ordinary

nary Floods. But with Submission to their Judgment, as the Ground in the Field on the East Side is considerably higher than the old Road, even as now improved, I should have much preferred making an entire new one there, and leaving the other, as Part of it is still left, for a Water-course. Such new Road would have been superior to the highest Rise of Water, and the Bridge might have been placed in a much more convenient Situation than that where it is placed at present. Bridges are infinitely preferable to Fords for Safety, not only in wet, but in frosty Seasons: The Entrance of a Ford in Frost is always encumbered with Ice for a considerable Extent, and of course frequently occasions Accidents.

Trustees are too often averse to purchasing Land for Improvements. They are apt to blame the Farmers, Waggoners, &c. for so reluctantly parting with their old Customs; but Trustees are certainly liable to a Retort of the Censure, for Attachment to their old Roads. Purchasing Land, however, from the Result of repeated Experience, I can aver to be, in general, the cheapest and most effectual Way, not only of diverting, or rather avoiding, Water, but of making Roads in every Respect commodious. I have known high Banks of Earth removed [I have myself been concerned in removing such, for I am not ashamed to own my Mistakes], at a great Expence, to widen narrow Roads, when by quitting such Roads intirely, and taking a new Direction, a better Way might have been had for less Money.

SECTION V. I have here again been obliged to invert the Order of the Statute, and place this Section, which is taken from Section 39 of the Act, after the Four preceding Sections, which are all taken from Section 41 of the Act. The Statute thus evidently puts the Cart before the Horse, enacting a Punishment for destroying or defacing Direction-posts and Mile-stones, before it has ordered them to be set up.

The very great Number of Mile-stones, which are mutilated and rendered illegible, almost as soon as they are put up, would induce one to think that no Pains was ever taken to discover and punish the Persons offending in that respect; and, indeed, I am fearful, Trustees, and their Surveyors, too rarely give themselves any Concern about the Matter; among a Multiplicity of Objects, some will be always more or less neglected. What those Persons are, who defeat the benevolent Intentions of the Legislature to curious or anxious Travellers, by defacing Direction-posts and Mile-stones; or what can be their Motive of Action, is a Matter, perhaps, not easily ascertained. I should suppose they are, in general, Boys, who, from an innate Disposition for Mischiefs, are pleased with destroying any thing new, that happens to engage their Notice. I have more than once observed, on some Roads, a very effectual Method of preventing the Effects of this mischievous Sport: Instead of Mile Stones, were substituted Posts, covered near the Top with a Plate of Iron, on which the Characters of Information were engraven so deeply, as not readily to be effaced.

C H A P. XIX.

SECTION II. *H*IS or her Christian and Surname, and Place of Abode, in large legible Letters.] I suppose this particular Specification of the Party's Christian Name was required, in order to preclude any Quibble about the Identity of the Person in case of a Prosecution. A Precaution of this Kind was very proper; for there are those who will avail themselves of any thing to evade deserved Punishment. It is, however, a Proverb equally trite and just, That there is no Convenience without its attendant Inconvenience; and
even

even this Precaution has sometimes been used improperly. The Legislature, undoubtedly, designed the Plan of marking Carriages (and an excellent one it is) for the more easy Detection of Offenders; but I imagine the Legislature never designed, that a mere accidental Omission of inscribing the Party's Christian Name *at length*, should subject him to the Penalty. When the Spirit of the Law was complied with, by inscribing the Surname and Place of Abode, and the Letter of it only disregarded in placing an Initial instead of the whole Christian Name, and that solely from Ignorance or Inattention, I should think a Mitigation of the Penalty to a very Trifle, or, perhaps, an Admonition to more Care in future, would be fully sufficient. A Gentleman of my Acquaintance, who had not the least Intention of offending in any Respect, had inscribed his Cart with the Initial only of his Christian Name, and with his Surname and Place of Residence at full Length: his Driver had committed no other Offence against the Act, or, indeed, any Impropriety whatever: An Information, however, was laid, and the Magistrate levied, if not the Whole, yet a considerable Part of the Penalty. What must be such a Magistrate's Motive of Action, I leave the Reader to guess.

SECTION III. *A Sum not exceeding Five Pounds, nor less than Twenty Shillings.*] This seems to be the Penalty on the Owner, for not having the requisite Descriptions painted on his Carriage. By Chap. 3. Section 7. [Section 21 of the Act] there is another Penalty on the Driver, [no Mention here whether he is Owner or not] not exceeding Five Pounds, nor less than Ten Shilling. And by Chap. 20. Sect. 5. [Sect. 40. of the Act] there is another Penalty on the Driver, not exceeding Twenty Shillings, in case he is Owner, and of a Sum not exceeding Ten Shillings, in case he is not Owner. What a needless and perplexing Variety!

C H A P. XX.

SECTION II. "*THE said Damage shall and may be recovered by Action of Debt, Bill, Plaint, or Information, in any of his Majesty's Courts of Record, by AND IN THE NAME of the Clerk of the Peace of the County for the Time being, wherein such Offence shall be committed, without NAMING THE CHRISTIAN OR SURNAME of the Clerk of the Peace.*" I was, at first, somewhat puzzled to discover, how a Thing could at once be sued for in a Man's Name, and not in his Name; but, after long Consideration, and various Conjectures, I concluded, that the Hundred was to be deemed indebted to the *Clerk of the Peace*; and not to *Thomas White*, or *Henry Jones*, Clerk of the Peace; or, in other Words, that it was the Office itself, and not the Individual exercising it, that was to become Prosecutor.

This Prosecution of the Hundred is evidently intended, as a Stimulation of the Public to discover the Offenders; but would it not have been as well to have postponed the Commencement of the Action for a specified Time, suppose a Year, in order to have seen whether any Discovery would have been made, instead of adopting this round-about Expedient of Repayment of the Money?

SECTION III. This is a very necessary and useful Clause; but I cannot positively ascertain the Extent of its Power. That it authorises Trustees to prevent new Fences from being made within Thirty Feet of the Middle of inclosed Roads where such Roads are wider than Sixty Feet between the old Fences, is plain; but, in that Respect, I should apprehend it to be unnecessary, because it should seem that all the Ground of Turnpike Roads between their old Fences, if even an Hundred Feet in Width, is the Property of the Trustees, and of course that no Person would pretend to appropriate it

it to himself; or that if any such Person did so pretend, there were sufficient Means already in Existence to obviate the Accomplishment of the Appropriation. Indeed, it must be owned, that as every Business is too often Nobody's Business, Attempts might be more probably made on the Property of a public Body, than on the Property of an Individual *. With regard to open Roads, the Utility of the Clause is evident: It will be, perhaps, for the most part, the only Definition of the legal Width of such Roads, which are continually encroached on by avaricious Landholders. I have frequently observed by the Side of Roads not Thirty Feet wide, cross Trenches dug several Feet deep, with a view to prevent Carriages from coming near the Corn; a Kind of Mischievous Traps, which must inevitably throw down a Horse, or overturn a Carriage, that might happen in the Dark to mistake the common beaten Track. I think there is no just Reason to suppose the Clause can operate to the Prevention of any Person planting Hedges, or affixing Pales in his own Ground, behind the Fences of Turnpike Roads, within Thirty Feet of their Center, where they are not Sixty Feet wide; though there are possible Cases where such Procedure may prove an almost intolerable Nuisance; for Instance, a Park Paling brought close to the Edge of a Road not Thirty Feet wide, and Trees planted in it, which in a Series of Years may everhang the Road more than Half-way. It is pity there had not been an Addition to this Clause, prohibiting the rebuilding Walls, or Houses, &c. within Fifteen Feet of the Middle of any Turnpike Road. Such an Ad-

* I know an Instance of a Farmer's digging a deep Chalk Pit in his Field, by the Side of a Turnpike Road, destroying the Quick Fence of the Road, and bringing his Pit Six Feet at least into it: On being applied to by the Trustees, he put a poultry Stake Hedge on the Edge of his Incroachment, which remains unremoved to this Day, a Terror to Travellers, and a shameful Memorial of Negligence, or Want of Spirit, in the Trustees.

dition would have gone a good Way towards the Obtainment of that *Desideratum*, of which so much has been said in my Remark on Chap. XVI. viz. A commodious Passage for Travellers, through Places where they cannot now pass without Danger. Water in Ditches and Rivers frequently in-croaches on Roads, through the Negligence of those who should take proper Care to prevent it. The new River, by the Side of *Chestnut* Turnpike Road, between *Amwell* and *Ware*, has taken considerably from the said Road: The legal Width of the River, as ascertained by the Act of 3 James I. Chap. 18. is Ten Feet; but, with what it has obtained from the Road, and the Lands on the opposite Side, it is now in most Places Sixteen Feet, and in some near Twenty. The Trustees have been justly blameable in not adverting to this Circumstance.

SECTION V. *If the Driver of any Cart, Car, Dray, or Waggon, shall ride upon any such Carriage in any Street or Highway.*] This Nuisance of Drivers riding upon their Carriages, is become so common, that it is impossible to travel on any of the public Avenues in the Environs of *London*, without observing Instances of it almost every Moment*. Indeed, a Person unacquainted with Law, must naturally suppose that there was nothing illegal or punishable in the Practice: Yet it is a Practice from which Mischief frequently proceeds, and for which there is no reasonable Excuse. In short Journies Weariness cannot be pleaded; and in long ones, either a Horse to ride on, or Two Drivers to relieve each other alternately, should always be allowed: Such avaricious Masters as will not allow either one or the other, deserve a much severer Punishment than that of the Loss oc-

* It is common to meet what may be called a String of empty Carts, returning from Market, drawn at a full Trot by Three or Four spirited Horses, and Two, or perhaps Three Fellows lolling carelessly in them, with all the Insolence peculiar to that Class of People called Waggoners flagrant in their Countenances.

caſioned by the Detention of their Servant, during the Time requiſite for a Proſecution. It is really aſtoniſhing that a Public, every individual whereof has the Safety of his own Perſon at Stake, and has an undoubted Right to puniſh the Offence, ſhould be guilty of ſuch flagrant Negligence. With ſome, downright Apathy, or Good-nature, which ſay, "It is no Buſineſs of mine; the Fellow has done me no Harm, &c.;" with others, the pecuniary or pleaſurable Avocation of the Hour, the Fear of being too late at the Market or the Exchange, the public Dinner, or the Play; and with others, the Dread of a Contention with the Offender, or Apprehenſion of ſome Expence in proſecuting; may be Obſtacles ſufficient to prevent an Interference. With regard to the Firſt Claſs of theſe Impediments I know nothing that can prevent their Operation: If People will prefer their own Eaſe, their own Inter-eſt, or their own Diſer-tion, to the Good of the Community, they muſt; but with regard to the latter, they are the Produce of erroneous Ideas. As to Contention with Offenders, I well know, that merely to talk to them, is to procure Inſult; but the Moment they find themſelves legally apprehended or informed againſt, their Noiſe, which is but the Noiſe of a Bully, is converted into the moſt abject Submiſſion; and the Act has wiſely provided for the Security of Perſons apprehending them, by inflicting a Penalty of Ten Pounds, with the Alternative of Imprisonment in Default of Payment, as the Punishment of Reſiſtance. As to Expence in all ſuch Caſes, none can properly accrue but what muſt be ultimately paid by the Criminal. I have heard it argued thus, "If I take a Driver into Cuſtody, what muſt become of his Horſes? they may do Damage, or ſuffer Damage, and an Action may be laid againſt me for it." But this is a Miſtake; the culprit Driver muſt be anſwerable for every Thing of that Kind, not the Party who is doing his Duty under Sanction of a poſitive public Law. The only rational

tional Excuse any Person can make for Non-prosecution of this Crime, is, Distance of Residence from the Scene of Action; or Want of Time through indispensable Engagements; or the Difficulty of finding a Magistrate: Yet with Two of these Disadvantages in my Way, I once reduced the most insolent Offender I ever met with, to a proper Acknowledgment of his Offence. I think all Trustees of Turnpikes, whose Business it should be to remove Nuisances of all Kinds from their Roads, should, in order to prevent the Plea of Ignorance, affix on their Toll-gates a List of the Penalties enacted for Misbehaviour in Drivers of Carriages; with Notice, that such Misbehaviour will be punished by their Servants, as Surveyors, Gate-keepers, &c. and should further impose on such Surveyors, Gate-keepers, &c. strict Injunctions to prosecute, and allow to them Rewards on Conviction of Offenders.

“ *If the Drivers of any Carriage whatsoever, on any Part of the Street or Highway, shall, by Negligence or wilful Misbehaviour, cause any Hurt or Damage, &c.*” These Words are very comprehensive, and must certainly include not only Waggoners, Carters, and Draymen, but also Drivers of light Carriages, as Stage Coachmen, Postilions, &c. whose Conduct is often very reprehensible. The races of rival Coachmen are, in particular, an Annoyance equally common and dangerous to Travellers on Horseback, or in Chaises: The Expression of *wilful Misbehaviour* must undoubtedly extend to this Case, and to all other Driving in a furious and irregular Manner *. It is great pity
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* With regard to driving fast, the Drivers may sometimes plead for Excuse the Orders or Solicitations of their Superiors. Many Persons of high Rank, whose Time, from their usual Mode of spending it, the sensible Part of Mankind cannot account very valuable, are nevertheless so fond of being transported from Place to Place with great Rapidity, that they frequently stimulate the Post-

it did not extend also to Persons riding violently on Roads, especially through Towns; a Practice by which innumerable Accidents, and many of them fatal ones, have happened. Of all who are culpable in this Respect, perhaps none are more careless of doing Mischief, or more insolent in their behaviour when it is done, than Gentlemen's Servants. I think, however, that no *Gentleman*, whatever be his Rank or Fortune, can justly merit that Appellation, who endeavours to screen his Dependants from deserved Punishment on such Occasions. But although the Act has provided neither Restrictions for the Prevention of Injury, nor Punishment for the Commission of it, Persons who are really injured have sufficient Means in their Power for punishing the Injurer: Such Means, however, through Irresolution, Ignorance, or pecuniary Inability, are much too rarely used. An aged Labourer crossing the Way in a Town, was rode over and severely bruised by a young Man riding at full Speed, in Company with another:— After losing several Weeks Work, the Sufferer applied to the Party concerned for Satisfaction for his lost Time, but could obtain nothing, hard Words excepted. The Affair happening in my Neighbourhood, after some further unsuccessful Attempts to gain Redress, he complained to me: I assisted him in commencing a Prosecution for an Assault; and the Assaulter was soon glad to compromise the Matter, by compensating the poor Man for Loss of Time, and the Expence of his Cure.

boys who drive them, to force their Cattle beyond their Strength, by declaring that they will not give them any Gratuity at the End of the Stage if they do not arrive at it in a specified Time. Could one suppose the *Lex Talionis* to take place in a future State, I should apprehend, that Wretches who can premeditatedly commit such Acts of Cruelty, would animate the Bodies of Horses, and undergo a Course of the same Sufferings they had so wantonly inflicted.

“ Or

“ Or if any Person shall drive, or act as the Driver *, of any Coach, Post-Chaise, or other Carriage let to Hire, or any Waggon, Wain, or Cart, not having the Owner's Name, &c. as before directed, painted thereon.” By Chap. 19, Section 3. Persons using unmarked Carriages, forfeit, from 5*l.* to 20*s.* By this Clause, the Driver forfeits, if Owner, 20*s.* if not Owner, 10*s.* Quere, Supposing the Punishment inflicted to the Extremity of the Law, does the Owner, when driving his Carriage, incur a double Forfeiture, viz. 5*l.* by Chap. 19, § 3, for using, and 20*s.* by this Section for driving; or the 5*l.* by Chap. 19, § 3. only, as including the 20*s.* of this Section? If owning, and driving as Owner, is not deemed a double Offence, and as such obnoxious to a double Penalty, I can conceive no possible Reason for mentioning the Case of the Owner driving, in this Section; it would surely have been sufficient to have mentioned the Case of the Servant driving, who, whether his Master pays the 5*l.* or not for Using, is certainly liable to pay 10*s.* for driving. On the whole, I should think, in a Case of an Owner-driver, the Magistrate might safely levy a double Penalty of 5*l.* and 20*s.* or, if he had a Mind to mitigate to the lowest, a double Penalty of 40*s.*; 20*s.* by Chap. XIX. § 3. and 20*s.* by this Section. There can exist only this Doubt in the Matter; whether the different Penalties were intended as Alternatives, that the Magistrate might chuse the 5*l.* of Chap. XIX. § 3, or the Mitigation of that Penalty to 20*s.* or the 20*s.* by this Section. But in this Light one or the other is totally superfluous. The Penalty of 10*s.* on the Servant-driver has certainly

* “ Drive, or act as the Driver.” This is a queer Redundancy of Expression; for he who drives cannot but act as Driver: Perhaps, however, it may have some Meaning, and was designed to imply a Distinction between a stated and an occasional Driver; though what such a Distinction could be made for, I must confess I cannot tell.

its Use; but there might a Case exist, in which it must prove a Hardship; when a Master would peremptorily refuse to mark his Carriage, and run the Risque of an Information, the Servant could have only the Choice of quitting his Place [perhaps a good one], or of being punished for the Fault of his Master.

SECTION VII. The Marginal Note of the Act groups all the Particulars of the Clause, as bearing one common Meaning; thus, "*Constables*, Surveyors, and all Persons employed with Salaries, refusing to execute the Act, and wilfully neglecting to prosecute Offenders for one Week after the Offence committed, forfeit 10*l*." But the Words in the Body of the Act are more explicit, and certainly do not include *Constables*, but only Surveyors, and other immediate Servants of the Trustees, in the Number of those who must prosecute Offenders within the Week, under Pain of the appointed Forfeiture of 10*l*.

By SECTION VI. *Constables*, refusing or neglecting to execute a Justice's Warrant granted in Pursuance of this Act, forfeit a discretionary Penalty from 10*l*. to 40*s*. By this Section, as above mentioned, *Constables* neglecting to put the Act in Execution in general, forfeit a fixed Sum of 10*l*. What is the Reason of this Difference? In the Case of Section VI. in Default of Payment of the discretionary Penalty the Alternative of Imprisonment is provided; in the Case of this Section, in Default of Payment of the fixed Penalty, no Mention is made of Imprisonment.

If a Multiplicity of Penalties for the same Offence be an Advantage, it is one of which the Constructors of this Act have been sufficiently liberal. By Chap. X. Section 10, (Sect. 57 of the Act) Gate-keepers neglecting, for the Space of a Week, to prosecute certain Offences there specified, as drawing with supernumerary Horses, or driving with unmarked Carriages, are liable to a Forfeiture of 40*s*. for every Neglect. By this Section,
Gate-

Gate-keepers neglecting to prosecute Offences in general, consequently the above mentioned included, are liable to forfeit 10/.

C H A P. XXI.

SECTION II. I Have brought this Section from Section 77 of the Act before I finished Section 76, because I think it should have been placed even higher in the Act than I, in Conformity to the Structure of that Act, have placed it; by which Means, the Relative, *such Order*, which has now no governing Antecedent absolute, would have been rendered intelligible. Suppose the whole Clause had run thus: "All Penalties, &c. shall be levied by Distress and Sale of the Offender's Goods, in Manner following: That is to say, within Six Days after Conviction, an Order shall be made and served on the Offender, for Payment of the Forfeiture incurred, and all Costs and Charges incident on the Prosecution, by the Justice before whom the said Offender was convicted (which Justice must be one of the Limit where the Offence was committed); and in case the said Order shall not be complied with, within the Time therein specified for Payment, then the said Justice shall, by Warrant under his Hand and Seal, cause to be levied such Distress as aforesaid; ordering the Overplus to be rendered to the Party, after deducting the Charges of making such Distress, &c."

—The Mode of Conviction need not be here introduced, it having been before described by Chap. XX. Sect 8. (Sect. 74. of the Act); the Alternative of Imprisonment, in Default of Distress, Section 4, might immediately follow, and the whole regularly conclude with the Application of the Forfeiture, Section 3.

C H A P. XXV.

THIS being a Kind of anomalous Affair, reducible to no particular Class of Subjects, and also of a temporary Nature, I have taken the Liberty to make it bring up the Rear in my Digest. It has, somehow or other, escaped the Notice of Dr. *Burn* in the last Edition of his *Justice of Peace*.

I HAVE now concluded my Remarks; and if any Person should suppose that I have treated some of the Subjects on which I have animadverted in a Manner too ludicrous for their Nature, I have only this Apology to make, that there being so many fair Openings for the Indulgence of Ridicule, I could not help now and then indulging it by Way of enlivening my Journey through the *Dry Desert*. I thought further, in case the vicissitudinous Disposition of the Legislature should soon render Part of my Text as useless as the last Year's Labours of Mess. *Moore*, *Partridge*, and *Gadbury*, that the Amusement the Reader might derive from the Pleasantry of my Remarks, would make him some small Compensation for the Purchase of the Volume.

A P P E N D I X.

On the Construction and Preservation of Roads.

AS, in the preceding Remarks, I have not been sparing of my Censure, either on the Constructors of our Turnpike Laws, or on those who are appointed to put them in Execution; some Persons may possibly be ready to apply to my Performance, the old Proverb, that, "It is easier to find Fault than to mend." To mend, however, if I have not the Power, I have at least the Will; and, without the presumptuous Idea of dictating to others, as if my own Judgment was infallible, I shall subjoin a few Hints of what, I think, would conduce more to the Acquisition of good Roads, and the Preservation of them when acquired, than any Measures that have been hitherto adopted for that Purpose: And these Hints I shall divide into Two Parts, *viz.* what seems necessary to be done by the Legislature, and what seems necessary to be done by the People.

In the first Place, considering how powerfully Difference of Opinion, Ignorance, and Indolence, operate in Matters of public Concern, it appears requisite, by some Degree of Coercion, to introduce into universal Practice,

tice, such Plans as Reason points out, or Experience has proved, to be most eligible.

By the Construction of Roads, I mean, not only the making entire new ones, but the Improvement of old ones; a Business that, in Fact, demands equal Skill and Attention, as for the most part it ought to be little less than a complete Renovation. The first Object of Importance to a Road, is its WIDTH, which should always be proportioned to its Degree of Traffick. For Avenues to great Cities Eighty or Sixty Feet, at least, of lateral Extent, is by no Means a Superfluity of Room for the Crouds that are perpetually passing: In this Circumstance the old Roads near *London, White-Chapel* excepted, are its Disgrace; but the new ones have a just Claim to Applause; that, in particular, which leads from the South End of *Blackfriars Bridge*, to the Obelisk in *St. George's Fields*, I would recommend, not only in this, but all other Respects, as a Pattern to all Road-makers. Who planned it, I know not; but whoever he was, his Work does him Honour; and the Man who attempts to evade, or even grudges the Payment of Toll for passing on such a Road, ought to travel in Dirt to his Horses' Belly all his Life-time. Beyond Twenty Miles from the Metropolis, a Width of Forty-two Feet, *viz.* Thirty of Causeway for Carriages, &c, and Six of Grass-slope on each Side to receive the Water, will be sufficient: only in Cases where no parallel Footpaths in the Fields behind the Hedges are permitted, there should be an additional raised Bank on one Hand, for Accommodation

tion of the pedestrian Traveller *. No Turnpike Road whatever should be less than Thirty Feet wide in any Part, the Streets of Towns and Villages not excepted; and here the Law might perhaps properly dictate and fix the Limit †: But as no Man should be so unreasonable, as to require another *to make Brick without Straw*, if a general Turnpike Act was to establish Thirty Feet as the least legal Width of all Roads, it must also enact, that Houses, with their Appurtenances, should be subject to Valuation and Alienation, by Verdict of a Jury; and further, that where the Finances of Turnpike Trusts were inadequate to the Task of purchasing such Houses, &c. as might be requisite for obtaining that Width, such Trusts should have Clauses added to their respective Acts, empowering them to raise their Tolls, and to borrow Money at higher Interest, as the Occasion might demand;

* On the *Chestnut* Turnpike between the North End of *Hodsdon*, and the Twenty-eighth Milestone, there is a pleasing Specimen of this Kind of Road, consisting of a Causeway in Ballast, with a Grass-slope on each Side, and a high Bank for a Footpath on one Hand, with a low quick Fence upon it. This Piece of Road was executed several Years ago under the Direction of Mr. *Paul Jollage*.

† There is a very common but erroneous Notion, that every Turnpike Road must be Thirty Feet wide according to Act of Parliament. The Mistake, I suppose, proceeded at first from some confused Idea of the Clause in the General Highway Act, which empowers Two Justices to widen Roads to Thirty Feet upon View; or else from some Misapprehension of the Clause in the General Turnpike Act, which is designed to prevent Incroachments. The latter Clause, however, only guards against the Diminution of Roads; it does not oblige Trustees to make them of any particular Dimensions. Vide Pages 55, and 196, of this Volume.

without

without that enormous Expence which is now always attendant on procuring a new Act, or even a trifling Addition to an old one *.

The absolute Necessity of admitting Air to Roads, by the total Removal of Trees and high Hedges, is already spoken of in my Remarks : The General Turnpike Act should have such a Clause as is there mentioned, prohibiting the Growth of Trees within Fifty or Sixty Feet of any Turnpike Road whatever.

Some may think that the DIRECTION of Roads should be ascertained by Law ; and any Deviation from the strait Line strictly prohibited. Straitness undoubtedly diminishes Distance ; and the Object of most Travellers is to arrive as soon as possible at the Place of their Destination. The Roads in *France* are said to be all strait, no Impediment whatever being permitted to make them otherwise. The Direction of *English* Roads, in general, is such, that to make them strait,

* I have said much in my Remarks about Houses, &c. and I cannot help repeating, that they are the most perplexing Obstacle that Trustees, who wish to improve their Roads, can possibly meet with. As a Proof how necessary it is to have a Power of removing them, I have been credibly informed of Instances, wherein Persons who were apprised of an Intention of taking Land from their Fields to widen Roads, have built Barns, or other Outhouses, in those Fields, in order to prevent the Obtainment of a strait Line, and thereby discourage the Trustees from widening. I widened a Piece of narrow Road this last Summer, all the Way but about Four or Five Poles Length, which joined on an *Orchard* belonging to a Person who would not sell a Part of it on any Consideration. On that very Spot a House by the Road Side had been twice moved back by preceding Trustees in order to widen : It is still Seven or Eight Feet too near ; but being the Property of the aforesaid Person cannot be purchased.

would

would be next to impossible: And even to reduce them into strait Portions of Three or Four Miles Length each, they must be altered and altered, till, like the Waterman's Boat, they retained nothing of their Identity but their Name. Where entire new Roads are made, the strait Line should be tenaciously adhered to. Local Interest in these Cases often produces strange Distortions. A few Years ago a new Turnpike Road was made from *St. Albans* to *Reading*: This Road was designed to open an easy Communication between the *East* and *West* of *England*; and had the strait Line been preserved, would have been many Miles nearer, than the Way through *Loudon*: It was, however, found necessary to make a zig-zag Line by *Watford*, *Amersham*, *Higb-Wickham*, and *Marlow*, solely to oblige the Inhabitants of those Towns; by which Means the Difference between the Two Roads is rendered inconsiderable. An indispenfible Obligation to maintain the strait Line, might, in some Cases, prove inconvenient; and by a trifling Departure from it, Difficulties, not otherwise readily surmountable, might sometimes be surmounted: An easy waving Line is agreeable to the Eye, and where the Road is sufficiently wide, and its Hedges kept low, cannot be productive of Danger: But for Want of some Restriction, the most unnecessary Curves, Twists, and Angles, are often made in the Length of a few Poles, and all to save a little Expence or Trouble. I know a Road through a common Field, which winds in such a Manner, that a Stranger must
be

be totally at a Loss to account for its Direction. The true Reason, however, of its oblique Course is this: The Land through which it *was* cut, belonged to one Person; the Land through which it *should have been* cut, belonged to several; and it was less troublesome to treat with one than with many *.

After the Width and Direction of Roads, their FORM comes naturally under Consideration, as a Circumstance which the Law might also properly determine. A Variety of Sentiments, or rather no Sentiment at all, but a Variety of Customs, produce in this Respect, a Variety of Appearances. The most common Plan is that of *a regular horizontal Surface*, terminated on each Hand by Banks or Hedges, or else by perpendicular Ditches of Three or Four Feet deep, hazarding Destruction to such as are forced to the Brink of them by Day-light, or may accidentally approach it by Night. Ditches by the Sides of Roads are a Nuisance that should never be suffered to exist: When covered with Bushes and Nettles, as they mostly are, they may be justly termed Traps, or Pitfalls, and have produced a Number of fatal Accidents †. The Land-

* It must be, however, acknowledged, that the winding Line has in this Place no Inconvenience but that of increasing Distance; the Ground is open, and of course, the Approach of Carriages may be perceived at a Distance.

† A Circumstance of this Kind occurred a few Years ago in my Neighbourhood: A Waggoner travelling on a narrow [Turnpike] Road, by some Means or other lost the Management of his Horses; in endeavouring to regain it, he slipped into the Ditch, and the Waggon following, crushed him to Death.

holders, those Pests of all Roads, sometimes make, and very often deepen these unnecessary and dangerous Ditches, by way of securing their Fences; and Trustees, who have generally coercive Clauses in their Acts for the Purpose*; are not unfrequently sagacious enough to promote, or even enforce this Business of making and deepening. The Kind of Road above-mentioned is the true Ploughman's Road, formed on the Idea of a Ridge in a Wheat-field, with a Furrow on each Side of it. Putting the Matter of Danger quite out of the question, how well such Roads are calculated for so humid a Climate as ours, those who have the Misfortune to travel them in the Winter, will readily determine. A transverse Section of such a Road would somewhat resemble this Figure.

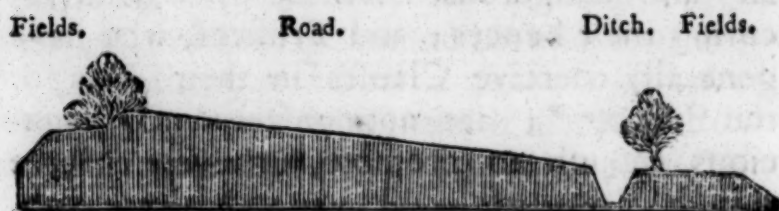


The *Angular Road*, sloping with a steep square Declivity, from one Hand to the

* The General Highway Act has a Clause of this Kind; and at the same Time, another much more rational one, which renders useless the other: *viz.* a Clause empowering the Surveyor to make Ditches and Drains in or across any of the adjacent Grounds where necessary. When Farmers are Surveyors, it may be readily guessed how often the Powers of this latter Clause will be exerted. "*Spare me, and I will spare you,*" is the Farmer's established Maxim.

other, -

other, like a pantile Roof, is the Favourite of some.



The Angle here is often so great as to endanger Overturning on the least Collision of Carriages; and always enough to occasion Anxiety to the timorous Passenger. There are not, I believe, many entire Roads on this Plan; but there are many particular Places, where, for some private Reason or other, it is unhappily adopted. The Gentlemen of *Stamford Hill* Trust have, within these few Years, made many noble Improvements; but their Road is not without Specimens both of this and the last-mentioned Mode of Construction. Before the Meeting-house at *Ponder's-End*, the West Side of the Way is raised in this Manner, I suppose, for the Convenience of the Gentry alighting from their Carriages; but if Persons will, from Parsimony of Ground or Money, place their Buildings in such Situations, they ought to suffer the Disadvantage themselves, and not impose it on the Public. There is another Instance of the same Sort, between the Ninth and Tenth Mile-stone, a little Way North of the *Rose and Crown* Inn, at that very dangerous Turning, mentioned in a Note on my Remark on Chap. 16, of the preceding Digest. I cannot conceive any possible Pretence for the
Position

Position of the Road on this Spot : it should be sunk on the East Side next the Houses ; raised in the Middle ; the filthy Ditch on the West Side filled up ; the Trees that grow by that Ditch cut down ; and a new Drain, if necessary, made in or across the adjacent Fields. I should suppose the Trustees have Power to make new Water-courses throughout any Lands in the Vicinage of their Roads ; if they have not, their Acts of Parliament are lamentably deficient. By this Means the Surface of the Road would be much improved ; but still the Cure would be only palliative, the Hazard of the Turning would remain ; nor do I see any Method by which that could be avoided, without making an entire new Cut in a strait Line from some Point nearer Mr. *Hamilton's*, behind those Houses that cause the Nuisance, to another Point near the Tenth Mile-stone : an Improvement which, I really think, ought to take place, whatever might be the Expence of obtaining it.

Another Species of Road is the *Concave*, or that which is lowest in the Middle : this Species is mostly met with, where there is an Opportunity of turning into it a Brook, or a Collection of Water from the Farmer's hollow Ditches. In Cases where there is any considerable Fall, this Road is seldom muddy, but it is always sandy and disagreeable to the Traveller. Roads on the Descent of Hills, are commonly of this Kind ; for if they are not originally and designedly laid hollow, the Current of Water, descending on every
Y heavy

heavy Shower, or rainy Day, without very particular Care is taken to prevent it, will soon be sure to make them so.

The *waved Surface* consisting of a Continuation of little Hills and Valleys, has had many Advocates, and till of late was very fashionable. The Road between *White-Chapel Church* and *Bow* (in other Respects a very fine one), is a Specimen of this absurd Construction: the ingenious Dr. *Folbergill*, and several more of the Trustees, I have been informed, were some Years ago very desirous of having it altered; but the Attachment of some old Members of the Trust to the old Form, and an over Caution of giving those Members Offence, prevented any Alteration. A Writer who acknowledges himself to have derived his Knowledge, not from his own Observation, but from the Intelligence of others, among the Directions he gives for the Formation of Roads, tells us, that “the
 “ Surface should be made latitudinally a little
 “ Convex, and where necessary, longitudi-
 “ nally waving, and at the same Time be
 “ raised so high, as to give Room for the
 “ Water to run off, and leave in the whole
 “ Breadth the Surface dry.” The Necessity of making any Road longitudinally waving, is a Necessity which, I may safely assert, can never exist; and the Road this Writer describes, I apprehend to be such a one as I have too often seen, *viz.* a Causeway from Twenty to Thirty Feet wide, nearly horizontal on the Top, with Precipices on each Side, of Four or Five Feet perpendicular
 5 Depth.

Depth. A tranverse Section of such a Causeway would have this Appearance *. Con-

Fields.

Road.

Fields.



trary Ideas too often produce Extremes in Practice, and as those who thought a *wet* Road best, would make it the Receptacle of every Ditch and Drain in the Neighbourhood; so those who thought a *dry* Road best, in order to have it dry enough, would elevate it quite into the Air. The Passengers in light Carriages on such a Causeway as the above, when driven to the Edge of it, by the Meeting of Two broad-wheeled Wagons, would not, I fancy, deem themselves under any great Obligations to the Road-maker. But to return to the professed Subject of this Paragraph, the principle of longitudinally waving: the general Plea for this Method is, that it most speedily dismisses the Moisture which falls on the Surface of the Road; but this is a Mistake. Water on a Road, either at Rest or in Motion, is

* A Part of the *Watton* Turnpike in *Hertfordshire*, between *Ware* and *Westmill*, and another Part of it at the South End of *Watton* Town, are on this absurd Plan, with the additional Disadvantage of being little more than Twenty Feet wide. A Bill for renewing the Act of this Turnpike, with a Power of advancing the Tolls, will soon be laid before Parliament: when it is passed, the Trustees design to improve their Road in these and many other Places.

mischievous: when at rest, it accumulates in Quantity, and by its specific Weight, and the continual Action of Carriages, penetrates and softens; when in Motion, according to the Degree of Descent whereon it passes, it more or less gulls (as the common People say), or in other Words, by forming a Number of small irregular Channels, destroys the Equality of the Plane. These Premises being admitted, it is clear, that Water at all Events should be removed; and that it should be removed in such Manner as to quit the Road as rapidly, and at the same Time with traversing as small a Portion of it as possible; but that this is an Object not to be obtained by the Plan of waving, is sufficiently evident. The longitudinal descending part of the shortest Waves I have seen, is Sixty Feet at least; the lateral descending Part of a Convex Road of Thirty Feet wide, is Fifteen; the Water, therefore, in one Case, must pass over a quadruple Proportion of Ground to what it does in the other; with the additional Injury of gulling the Channels that are made for it to run in, by the Wheels of Coaches and narrow-wheeled Waggon. It has, indeed, been said, that Roads lying for any considerable Length on what is termed a dead Level, must inevitably be waved, in order to procure a Discharge for the Water entirely out of the Road; but the Assertion is a self-evident Absurdity. In these Cases, the Hill Part of the Wave must be raised above the general Level of the adjacent Ground; and I can conceive no Reason why the Valley Part might not be raised so likewise, and the Water,

by

by that Means, be dispersed imperceptibly on the Sides of the Road, instead of being collected between the Waves in vile Grips (as they are termed), that serve only for jolting Places to Carriages, and stumbling Blocks to Horses.

Thus much for the Plans, on which Roads have hitherto been too generally constructed, all which I hesitate not to pronounce absurd; and that the only rational one yet remains unmentioned, viz. that of a *moderate Degree of Convexity*. The Advantage of walking dry, was a Circumstance to which even our Ancestors attended; nor were they at a Loss to provide an effectual Means of obtaining that Advantage in the Form of the Gravel Walks of their Gardens; but, surely, the Intellects of themselves and their Posterity must be circumscribed in a very narrow Compass, not to extend the Practice which they found successful in one Instance, into another so precisely similar. The convex Form was, however, at last hit upon by some Person or other, and is deservedly coming more and more into Use; but as old Prejudices are slowly surmounted, it would certainly be highly conducive to public Convenience, to have the Adoption of it universally directed by an Act of the Legislature; and in that Case, in order to prevent an inefficacious Approach to it on one Hand, or a dangerous Excess on the other, the Proportion of Rotundity to Width might be particularly specified. Previous to the Ascertainment of that Proportion, a Number of the Roads, already constructed on this Plan, should be

Y 3 examined;

examined ; the Deviation of Carriages passing on them from the perpendicular Line, carefully marked ; and the Level taken of that Construction, which seems, at once, safe to the Traveller, and sufficiently round to prevent the Retention of Water. From such Observations, however, as I have had Opportunity of making, I apprehend a Fall of an Inch, or, perhaps, an Inch and Quarter, in a Foot, cannot easily be productive of Danger, and yet will be adequate to the desired Purpose of quickly discharging the Moisture, A Road on this Model would appear nearly as under :



From A to B, is the Part covered with Ballast, Thirty Feet in Width ; from B to C, is the grassy Slope, that receives the Water ; and D is the Hedge, through proper Outlets in which the Water is discharged into Drains in the adjacent Fields. A Road of this Kind, if composed of good Materials, will be cleaner than any other, even in the worst of Weather, and cannot possibly occasion Accidents to Carriages or Horsemen, either by Night or Day. These Roads, however, if Care is not taken to make such Outlets as I have mentioned, will, in clayey Soils especially, detain the Water between B and C, &c. till it sometimes occasions Damage by undermining the Part between A and B ; and this Excuse is commonly made for suffering Water to be

be so detained, that the Ground rises so greatly on the Side of the Road, as to render making any Outlet or Drain absolutely impracticable: the Excuse, however, is frivolous, as the Water may, without the least Difficulty, be transmitted from one Side to the other, through small wooden Trunks of Six or Seven Inches diameter, laid transverse under the Surface of the Road, at greater or less Distance as the Occasion may require. The Confinement of a level Road between high Ground on both Sides, is a Circumstance that very rarely happens; but, whenever it may occur, the Difficulty is not insuperable: the first Alternative, if at all eligible, is to chuse a new Direction on a more propitious Situation; nor should a very considerable Expence, or small increase of Distance, be put in Competition with the Advantages derivable from such Choice: the next Alternative, is, by filling in Earth from the confining Banks, to create an artificial Hill, of an easy Declivity, terminating its Descent at the first Place where those Banks terminate.

Such Trunks as I have mentioned, only of increased Dimensions proportioned to the Business to which they are appropriated, where the longitudinal Extent of a Road is nearly level, are certainly preferable to Arches, for the Conveyance of small Brooks, or Runnels of Water, from one Side to the other, as they preclude those sudden disagreeable Risings which Arches must necessarily produce; and will, if made of Oak, or yellow Deal, remain under Ground uninjured for many Years. When there is a considerable Ascent and De-

scant from such Brooks or Runnels, Arches are, indeed, most beneficial, because the Depth of Materials required to cover them will assist in diminishing the Irregularity of Surface. The following Figures may just serve to show my Idea of the different Situations, in which I think Trunks and Arches may be respectively useful.

Fig. 1.



Fig. 2.

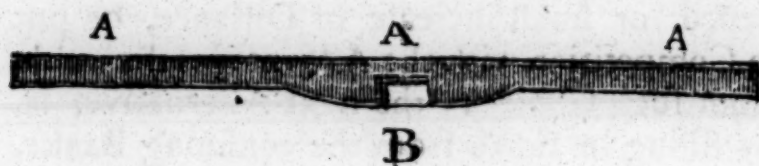


Fig. 3.

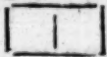
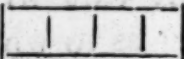


Figure 1. is a tranverse Section of a convex Road, and a Trunk under it, to transmit the Water from one Side to the other: A A A, is the Surface of the Road; B B, is the Trunk.

Figure 2. is the longitudinal Section of a Road, shewing the End of a large Trunk laid

laid across it: A A A, is the Surface of the Road; B, the End of the Trunk.

Figure 3. is the longitudinal Section of a Road, with an Arch under it: A A A, is the Surface of the Road; B, is the Arch; C C, is the Surface of the old Road before the Arch was built.

In Cases where Trunks are of a considerable Size, they should be strengthened by a Partition in the Middle, thus;  and by Means of more such Partitions, may be made of any Diameter, viz. 

It is a common Opinion, that convex Roads should have a much less Degree of Convexity on the Descent of Hills, than on a Plain: this Opinion, on a superficial View, may appear rational; but is in reality erroneous. It is generally supposed, that the natural longitudinal Declivity will discharge the Water so fast, as to obviate any Necessity for a lateral artificial one; and the Supposition is, indeed, but too true. In most Cases it is, indeed, difficult to give a Road on falling Ground, Rotundity enough to counteract the natural Fall, and divert the Water to a lateral Course, and yet, not to endanger the Safety of the Traveller. If such Rotundity, however, is not obtained, what will be the Consequence? why the Action of every Shower (as has been hinted on the Subject of *waved Roads*), will destroy the Surface of the Slope, producing innumerable rugged Gutters, and Collections of Sand, loose Stones, &c. and by that Means, not only render the Way incommodious, but enhance

hance the Expence of Maintenance, by creating a Necessity for continual Repairs. All this considered, I think it must be allowed, that a Road on a Descent, instead of being less round than one on a Plain, should be more so; and in fact, that it should be as round as possible, without subjecting Carriages to the Jeopardy, or even the Apprehension of an Overthrow.

Thus far, that is to say, in what regards the Dimensions and the Form of Roads, the Matter seems easy to be regulated by the Legislature: as to what remains relative to their Construction, the Matter must rest wholly with those to whom the Management of them is commonly intrusted. But as I have had more Opportunity of Observation than some others, I shall take the Liberty to present the Reader with what has occurred to me on the Subject; and, next to the Form of Roads, proceed to consider their COMPONENT MATERIALS, both with regard to Foundation and Superficies.

The more Nature has done towards the Formation of a Road, it is evident there must be the less for Art to do. There are Cases wherein the natural Stratum will serve both for Foundation and Superficies; there are Cases wherein it will serve for the former, but not for the latter; and there are Cases wherein it will serve for neither. In the first Predicament may be ranked Beds of Rock or hard Quarry Stone, lying at or very near the Surface; in the Second, Beds of Chalk and Gravel, lying in the same Situation; and, in the Third, all soft and loose Soils,

as

as Clay, Loam, Garden Mould, Moor, Sand, &c. In the first mentioned Circumstance, nothing more is necessary than to take off what Workmen call the Kalendar, or fine Mould (if there is any), and to shape the Road to a proper Degree of Rotundity : in the Second, the said Kalendar should be taken up at the Sides, and thrown into the Middle to form the Convex, and then covered with Materials of a better Quality * : in the Third, the natural Ground ought not to be broken, as it must support the whole artificial Road, both Foundation and Superficies †.

The

* The Author I have before quoted asserts, that “ these natural Roads [viz. Beds of Chalk and Gravel] “ want no other Fabrication or Repair than that of making and keeping their Surface nearly horizontal and “ dry ; the only Effect the Passage of Wheel Carriages “ has on them being that of grinding away the Surface, “ and leaving a light Dust, which the Wind, in general, “ dissipates. Such Roads are of all the best, and are “ what the artificial Roads should be made, as nearly as “ possible, to resemble.” Now, not to insist on the Impossibility of a horizontal Surface being kept long dry in our Climate, it is easily guessed what sort of a Road, a natural Bed of Chalk or Gravel, laid horizontally, or even convex, will make, not only after Frost, and during Winter Rains, but even after the Thunder Storms of *July* and *August*. Natural Beds of Chalk and Gravel, as above mentioned, make a very good Bottom ; but they must have a Top of Substances more capable of resisting the Action of Carriages.

† Our Ancestors seem to have had no Notion of making a Road by Addition, but rather by Abstraction of Matter. The Kalendar, or Staple of loose Soil, however deep, they always dug out, till they found what they called the hard Bottom, of Stone, Chalk, or Gravel ; and this Mode of Procedure, I apprehend, was the Origin of those narrow hollow Cartways, with high Banks
on

The Choice of proper Constituents for the Foundation of a Road on loose Soils (whether consisting of Clay, Loam, or Sand), is an Affair which merits no small Attention. Flints and Pebbles have been too often, though very erroneously, recommended for that Purpose: their Gravity is so great in Proportion to their Cube, and their perpendicular Action, of course, so powerful, and so partial, that on such Soils, wet or dry, they will be soon involved in the natural Stratum *. Neither is the Use of them more improper than unnecessary: where they are to be found, there is always to be found Chalk or Gravel; and these are the very Materials one would wish to employ, since their Tenuity is such, that they soon consolidate, and, acting like an Arch, will not yield to the Pressure of the heaviest Carriages. Where Chalk or Gravel are not procurable, burnt Clay will be no ineligible Substitute. Next to the Quality of a Foundation, the Time of

on each Side, which are miscalled Roads, to the Disgrace of every County in *England*. Where no such Bottom could be found, but the whole was a clayey or boggy Abyss, they dragged through it in Summer as well as they could, and in Winter stayed at Home.

* If Flints or Pebbles are ever used on hard Soils, merely as Stuff to raise, they should be always covered with a proper Thickness of Chalk, Gravel, or some other cohering Substance. I remember seeing, some Years ago, a large Quantity of the old Pavement of *London* Streets lying in Heaps near the Weighing Engine at *Stamford Hill*: these, I apprehend, were afterwards too superficially buried under the Road, which, for some considerable Length, occasions a disagreeable jolting Sensation to the Traveller in a Carriage, that nothing apparent on the Surface seems capable of producing.

laying

laying it should be considered: this is, obviously, when the natural Ground is in its driest State; and therefore, contrary to the vulgar Opinion, I do not hesitate to pronounce the Height of Summer to be the best Season for Road-making. Great Quantities, not only of Flints and Pebbles, but of Chalk and Gravel, have been often absolutely wasted by being thrown among deep Mud, when a much less Proportion, laid on the same Spot when the Mud, by Action of Sun and Wind, was converted into Dust, would have formed a sound and durable Causeway. Some Soils however there are, which will never be naturally dry, as being fraught with what are commonly termed Land-springs: when this is unfortunately the Case, Recourse must be had to Art for Assistance; and here the Method of Hollow-ditching, practised by Farmers on their heavy Lands, might probably be adopted to Advantage. If this Expedient should fail, or, from the level Situation of the Ground, be found impracticable, the first Foundation must be made of Brushwood Faggots, and the Second, of Chalk and Gravel, &c. be raised upon that, gradually, and to a greater Thickness than would be requisite in any other Circumstance. As on all naturally soft or loose Soils the adventitious Materials derive their Power of resisting Pressure from that Compaction which enables them to act like an Arch, and as the Strength of an Arch depends upon the superior Strength of its Abutments, those adventitious Materials should always be extended to such a Width, that, when they are

completely cemented, the lateral Parts may be sufficient to enable the central Part to sustain not only its own Weight, but whatever incumbent Weight may be superadded. Or, to speak in Words intelligible to every Capacity, the Road should be made wider on wet or loose Soils, than on dry or solid ones *. The Reader who attends to the preceding Lines will readily perceive that a Road on soft or loose Soils, must be a Causeway raised above the Level of the adjacent Ground: but he is not to suppose that it should be such a Causeway with perpendicular Sides as is described and reprobated in Page 323 of this Appendix; but such a convex one, as is described and recommended in Page 326, only on a larger Scale: for as its central Altitude, above the natural Surface, will necessarily be greater, its lateral Extent ought to be greater in Proportion; or, in other Expressions, as I have just before hinted, that as a Road on a bad Bottom should be wider than usual for the Sake of Strength, so it must be wider than usual for the Sake of Safety.

* Some may wonder that I have ranked Sand among the Soils on which it is necessary to raise an artificial Causeway, since nothing is more common in sandy Countries than to make the natural Surface serve for a Road: but the Traveller who has travelled this Kind of Road once, will not, I believe, wish to repeat his Journey. There is much of it in *Bedfordshire*, particularly on the Turnpike between *Hitchin* and *Bedford*, and also near *Wooburn*: but the worst Specimen I ever met with is near *Dorking* in *Surry*, in the Way to *Leith Hill*: it is not Turnpike, but the Parishes have no Excuse for not mending it, as there is Plenty of Chalk, and, I believe, of Gravel also, in the Neighbourhood.

It

It has been already observed, that there is only one Kind of natural Soil which will of itself form a Road, both Foundation and Superficies *. With regard to all other Kinds, however proper they may be for the former, Art must supply them with the latter. The best Covering for Roads, where it can be procured, is undoubtedly Cast Gravel, commonly called Ballast. Gravel, by the Operation of Casting, or Screening, loses the major Part of its Sand, and a considerable Part of that Loam which turns to Dust with Drought, and to Dirt with superfluous Moisture; it nevertheless retains loamy Particles enough to enable it to cohere into a uniform smooth and firm Surface. This, however, is not the Case with another Material frequently in Use for the same Purpose, *viz.* picked Stones, or those gathered off arable Land, which are washed so clean from all adhering Matter, that they never, or, at least, with very great Difficulty, unite into a compact Body. In *Northamptonshire*, *Oxfordshire*, and the *West of England*, they cover with Quarry Stones, broken into Cubes or angular Pieces, of about Four or Five Inches Diameter: when these Roads are pretty well worn, they are of tolerable easy Passage; but, when new made, they are very bad, the Points of the Stones being inexpressibly fatiguing to Horses unused to the Country. If the Cubes were broken to a smaller Size, and a thin Surface of Gravel, Chalk, Sand, or burnt Clay, thrown over them, they would

* *Viz.* Rock, or Hard Quarry Stone.

be much less formidable to Strangers. Some Years ago I passed a most horrid narrow Road, between *Newport Pagnel* and *Oulney*, covered with these sharp pointed Cubes, and paid a Toll for my Passage; which, if the Road has any considerable Share of Traffick must, with good Management, have enabled the Trustees to have done better. What the Durability of this Material is, I do not pretend to determine.

On the *Brighthelmstone* Road, between *Dorking* and *Horsham*, they use a Kind of flat Quarry Sand-stone: I saw great Quantities of it lying by the Road Side, but in what Manner it was managed I had no Opportunity of inquiring: the Road, however, when I travelled it [in *September 1773*] was in such Condition as not to merit Censure*. In some other Parts of *Sussex*, they use Cinders from the Iron Forges for a Covering: these seem to form a pleasant and substantial Superficies, and, I should suppose, must be incapable of injury from the severest Frost, or longest Continuance of Rain. Whatever be the component Materials of a Superficies, they should always be laid on when the Founda-

* The Roads of *Sussex* are almost proverbial for their Badness; but I travelled the *Brighthelmstone* Road above mentioned, and that from *Lewes* to *Tunbridge*, without finding any Cause to complain: that indeed from *Chichester* to *London*, is, between *Midhurst* and *Haslemere*, though called a Turnpike, worse than many of the Bye-Lanes of *Hertfordshire* and *Essex*. I suppose it is not much frequented, and indeed it were a Wonder if it was: however, I should think, if Judgment and Spirit, those two necessary Articles for Road making and Road mending, were not wanting, Means might be found to improve it.

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tion is in its driest State: the Winds of *March* and *April*, and the Suns of *June*, *July*, and *August*, are not more to be prized by the Sower, the Haymaker, and the Harvester, than by the *Roadmaker*.

Another necessary Precaution is, that the Foundation be well beaten by the Passage of Carriages, previous to its being covered; and another; that the Covering extend to the whole lateral Extent of the Road. The common Mode of laying Ballast, is to lay it only the Width of One, or, at most, of Two Carriages; the Consequence of which is, that Waggoners (who have a prodigious Aversion to drawing on rough Ground) will always go on one Side of it if possible, and tear the uncovered Part to Pieces with their destructive narrow Wheels. I know a Spot where a Breadth of Fourteen or Fifteen Feet of rough Ballast has lain untouched these Four Years, merely because there was just Room for a Waggon to pass without touching it.

A BOUNDARY of some Kind or other, on each Hand of all public Roads, is of such various Utility, that it ought to be their constant Appurtenance. By determining what Portion of Surface is really Highway, it precludes all Pretence for, or Dispute about Encroachments; it prevents travelling Cattle from trespassing upon the adjacent Lands, as they too often do to the Perplexity of their Drivers; and, what is of far higher Importance, it prevents Passengers in the Dark from mistaking their Way, and perhaps losing their Lives, which, where open Roads lie

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upon boggy Soils, or among Rocks and Precipices, are frequently in no small Jeopardy. I cannot, therefore, but esteem it the indispensable Duty of Trustees, to fix a sufficient Fence on each Hand, at or near the Verge of their Causeways. There are different Kinds of Fences that will answer the Purpose of Security; but the best and cheapest I am acquainted with is, a Bank of Earth, three or Four Feet High, with a Quick planted on it, and kept thick and low by constant cutting. Where Quick will not grow, Banks of Earth, raised somewhat higher, must serve: and in Places where neither Quick will grow, nor Banks can be formed for want of a proper Tenuity in the Earth, Posts and Rails, however expensive, should be substituted *. *That all Roads should be as Safe by Night as by Day*, is a Position which will not admit of a Moment's Controversy. When a Person has the full Exercise of all his Senses, he may, by proper Caution, in a great Measure, avoid Danger; but when the Use of any of those Senses is suspended, surely Danger should not be purposely, or even carelessly, placed in his Way. Yet that Reason and Practice are at utter Variance in this Particular, must be obvious to

* Where Banks of Earth are raised, there should always be Holes made through them, at proper Distances, for discharging the Water from the Road into the adjacent Fields. In the West of *England* they make Fences of Stone Walls. I saw one near *Bath*, which was compleat in every Part, except where it was most needed, on the Verge of a Precipice: I could not but fancy the Surveyor to be a Farmer, who would take care of his own Fields, but not of Travellers Necks.

almost

almost every one whose Excursions have extended to the Distance of a few Miles from Home. Fences by the Sides of Roads are often totally wanting; but this is the least Part of the Evil: even where there are Fences, between them and the narrow Portion of Passage allotted to Travellers, the Appearance of Gravel and Chalk Pits, deep Stone Quarries, &c. often demonstrates the Stupidity and Parsimony of Trustees and Parish Surveyors, who will dig their own Roads to Pieces rather than purchase Land for the Provision of Materials in proper Situations *. Neither is it uncommon to meet with deep Holes and Trenches, for which one can conceive no Origin but the Avarice of Landholders, who have had the Effrontery to remove the Ground for the Purpose of manuring their Fields. That twenty Accidents do not happen instead of one, I think can be accounted for only on this Principle, that those who are accustomed to travel in the Dark, as Waggoners, Postilions, &c. can see better than other People. There are, however, Nights in our Country (and those not very uncommon), in which Objects are scarcely distinguishable, even by the visual Organs of *a Cat or an Owl*.

But to return from this Digression, which I expect the Importance of the Subject will

* I know an Instance of a Chalk Pit dug near Twenty Feet deep perpendicular, close behind the Hedge of a Turnpike Road, partly for the Use of the Road, and partly for the Use of a Farmer: the Winter Frosts and Rains will, in a few Years, bring down the Hedge, and the Mischief will be irretrievable, without great Expence.

excuse. The Construction of Roads having been pretty fully considered, I shall now advert to their Preservation, and first consider what seems necessary to be done by the Legislature in that Respect.

It is always a flagrant Defect in civil Policy, when a Number of complicated and, perhaps, inconsistent Means are employed for the effecting one simple Purpose: it is, on the contrary, an Excellence, when one simple Means is capable of performing a Variety of useful Operations. The Reader must have observed, that the General Turnpike Acts, before digested, provide a Multiplicity of inadequate Expedients for the Business of preserving Roads: I cannot, however, suppose the least Difficulty in providing others at once more intelligible, concise, and effectual.

I must own I have no very high Opinion, even of the broadest Wheels, when loaded with enormous Weights; I would therefore propose,

1st. That the Trustees of all Turnpike Roads whatever, should be obliged to erect Weighing Engines; and that a new Table of Weights, proportioned to different Kinds of Carriages, should be established: no Carriage whatever to be allowed more Weight than Six Tons*.

* The Advantage of Weighing Engines is, at present, quite local; where Two Roads are parallel, or nearly parallel, and a Weighing Engine is erected on one, and none on the other, the Waggoners will be ture to quit the first, and tear the second to pieces. I know an Instance just at present full to the Point in Question.

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2dly.

2dly. That the Wheels of all Waggon and other Four-wheeled heavy Carriages, under the Breadth of Sixteen Inches, should be constructed according to some of the following Dimensions, and placed in the following Manner.

Nine Inches broad, placed so as to roll Sixteen.

Eight Inches broad, placed so as to roll Fourteen.

Seven Inches broad, placed so as to roll Twelve.

Six Inches broad, placed so as to roll Eleven.

Five Inches broad, placed so as to roll Nine.

Four Inches broad, placed so as to roll Seven*.

3dly. That the Wheels of Carts, Drays, and other Two-wheeled Carriages, be of the Breadth of Six Inches, or above.

4thly. That the Tire of all Wheels whatever should be flat, and fastened with Nails countersunk, or not rising above the Surface.

* A Four-inch Wheel equally loaded, must certainly be more injurious to a Road than a Six-inch Wheel, because the same Weight rests on one Third less Surface in the former Case than in the latter; but where Four-inch Wheels are placed to roll double, it will somewhat diminish the Difference of the Injury; and as an Indulgence in the Use of such Wheels will be a great Saving to the Farmers in point of Timber, it may be, perhaps, not amiss to indulge them: I think, however, in order to show some Preference to the broader Wheels, and some Discouragement of the narrower ones, it might be as well to retain the additional Half-toll of the present General Act, on all under the Breadth of Six Inches. This Step is also more necessary, as an Annihilation of that Toll would lessen the Income of Turnpikes to the great Detriment of Roads.

5thly. That the Use of all Waggon, Carts, and other heavy Carriages, with Wheels constructed or placed in any other Manner than as above-mentioned, be totally prohibited; the Penalty on using them to be a Forfeiture of the Carriage and its Appurtenances; the Prohibition to take Place in Two Years from the Commencement of the Act. The above Regulations to extend, not only to Turnpike Roads, but to all the public Highways of the Nation.

6thly. That the Wheels of all Stage-Coaches should be of the Breadth of Three Inches, placed so as to roll Five, with flat Tire. The Number of Passengers to be limited.

7thly. All Exemptions from Payment of Toll, allowed by particular Turnpike Acts, in favour of Carriages carrying Dung, Chalk, Lime, or other Manure, to take place only with respect to such Carriages loaded with these Materials, as do not pass Two Miles on the Roads maintained by such Acts. No Exemption whatever to be granted by the General Act.

8thly. All the Clauses, both in the General Highway and Turnpike Acts, respecting Limitation of Horses, to be repealed, as useless to the Public, and injurious to the Individual.

The above is, I think, the Whole necessary to be done by the Parliament; what remains must be confided to the Affiduity, Spirit, and Resolution, of Trustees. The best planned Laws will avail nothing, if those appointed

appointed to execute them, are deficient in their Duty.

If Trustees will not meet above Two or Three Times in a Year, and then not in a sufficient Number to transact the Affairs of their Trusts; or in Case their Meetings are more frequent, and better attended, if those who attend will engage in common Conversation, instead of adverting to the Business of the Day, consulting on the State of their Roads, and considering how to remedy Defects, or produce Improvements, is is easy to tell what must be the Consequence *. An Adoption

* The Trustees of the Three Trusts, whereof I have the Honour to be a Member, are, I believe, much less culpable in this Matter of Negligence than many others. We meet often Five or Six Times, or more, in a Year; and with regard to Two of these Trusts, there is always a sufficient Attendance; with regard to the other, it must be owned, there has sometimes been a Deficiency. In many Places, I apprehend, the Case is very different: I was not long since credibly informed, that a Trustee of a Turnpike, within Twenty Miles of my Neighbourhood, either boastingly, or with Regret (I know not which), declared, that his brother Trustees met but Twice a Year, and that then their Meetings were scarcely numerous enough to do Business. How Matters stand in this respect in some remote Counties, may be judged from the Account of the ingenious *Dr. Burn*. "I have known," says he, "a Turnpike Meeting advertised, from Three Weeks to Three Weeks, and never a competent Number of Trustees attended for a Year together." When a few active and intelligent Gentlemen would devote their Time and Trouble, and exert their utmost Endeavours for public Good, it must be inexpressibly vexatious not to be able to collect together Four or Five more for an Hour or Two, just to give a legal Sanction to their Proceedings. When the customary Letters are sent by the Clerk to the Trustees, informing them of the Time and Place of Adjournment, I am told it is no uncommon Query from some, "*Is there any Thing*

Adoption of that absurd Maxim, "*That every Body's Business is Nobody's Business*;" the Parsimony of private Life, carried into public Affairs; an habitual Retention of Money, which can be of no Use to the Retainers; an acquiescent Disposition, fearful of offending this Man or the other Man, and an interested Disposition, watching every Opportunity of serving Self, or a Relation, or a Tenant, or a Dependant; are all, more or less, operative to the Destruction of the Roads of this Nation.

To stimulate Apathy to Action, and Inattention to Diligence, is a Task to which, I apprehend, the Abilities of any Writer would be totally inadequate: I cannot, however, on this Occasion, avoid observing, that it is really Matter of Wonder, while many are so much at a Loss for Amusement as to engage in Pursuits destructive of their Fortunes and Constitutions, and injurious to their fellow Creatures; and others are looking round them seemingly in a total Vacancy of Thought, and yawning, as it were, for somewhat to do; that there should be so general a Reluctance to the Transaction of public Business, an Amusement at once inoffensive to the Party transacting and beneficial to the Community.

A Desire in Trustees to be exonerated from Trouble, produces that most pernicious Prac-

"*particular to do?*" For my own Part, I must confess, this is a Query I never ask. I have attended Turnpike Meetings for several Years past, and have always found more Business to do than could be done in the Hours allotted for doing it.

tice

tice of *farming Roads* ; which, like *farming the Poor*, is the Disgrace of our Country *. The Trustees, when once a Road is *farmed*, have nothing to do, but meet once a Year to eat Venison, and pay the *Farmer* his Annuity : the *Farmer* has nothing to do, but to do as little Work, and pocket as much Money as he possibly can ; he has other *Fish to fry*, other Matters to mind, than *Road-mending* : Incroachment after Incroachment takes place, the Hedges and the Trees grow till they meet overhead, the Landholders are excused from their Statute-duty, and the Water and the narrow-wheeled Waggon complete the Business. At length, perhaps, the universal Complaint of Travellers, or Menaces of Indictment, rouse the Trustees for a Moment ;

* These Practices of farming Roads, and farming the Poor, ought to be prohibited by Law ; yet the latter, to the Shame of our Civil Policy, is supported by that *Statute*, which (in Spite of all the Censures bestowed on me for calling it so) I will persist in calling an “ execrable “ *Law*,” and a *dreadful Engine of Oppression* †.” I know it to be a Source of innumerable Miseries to the Poor ; and I know no Use it can be of, but to make Addition of ill-got, or rather ill-saved Wealth to the Purses of those who have already a Competence, indeed often a Superfluity. That *Friend of Man*, Mr. HOWARD, at the Peril of his Life, has explored the Secrets of Iniquity in our *Prison-houses*. He has done his Duty—No more can be required of *him* ; but if a few Gentlemen of Spirit, Ability, and Humanity, in every County, were to follow his Example, and examine the *Prison Workhouses* of their respective Counties, I believe Conduct would be brought to Light, that could scarcely be supposed to exist even among Savages.

† 9 Geo. II. c. 7. § 4. Vide Observations on the State of the Vagrant and Parochial Poor, p. 36.

a Meeting is called, the Farmer sent for and reprimanded, and a few Loads of Gravel buried among the Mud, serve to keep the Way barely passable.

As to Parsimony of public Money, both Obligation and Interest militate against the Indulgence of it. When the Public pay for Accommodation, they expect, and have a Right to be accommodated. When any Thing is paid at a Turnpike, the Payer does not stand to consider, whether what he pays, is equal to the Purposes of making or keeping a good Road, but only that he does pay, and ought to have a good Road for his Money : and on this Principle I know, that even *Farmers* and *Waggoners* rationally grudge a small Toll for travelling on a bad Turnpike, but do not hesitate at Payment of a Toll much heavier for the Convenience of one in proper Repair. In the first Case, whether justly or not, they suspect Negligence, or, perhaps, Peculation ; in the latter, they are convinced that they have at least somewhat towards their Pennyworth for their Penny. The Object of Trustees should not therefore be the making Savings in order to pay off their Debts, but rather the expending their whole Income on their Roads, in the best Manner it can be expended : and if that Income is not found sufficient to answer the desired End, they should raise their Tolls till it become so. Indeed, with regard to the greater Part of the Turnpikes in this Nation, I believe, instead of thinking of discharging their Debts, it will be highly necessary to contract more, in order to execute the requisite Amendments.

ments. Trustees, I apprehend, would ultimately find their Advantage in making Expensive Improvements at once; since such Improvements would of Course produce a Diminution of the Charge of Maintenance, and enable them to oblige Travellers with convenient Passage at an easy Rate.

Such is now the general Character of Mankind, that, to talk of public Spirit, or the Idea of serving the Community, unconnected with the Idea of serving Self, is little better than furnishing a Subject for Merriment; nevertheless, it is to be hoped, there are some few, whose Conduct may demonstrate, that Disinterestedness is not quite a Non-entity; and I apprehend Trustees of Turnpikes, who do their Duty, must, in general, be of that respectable number. Particular Turnpike Acts, for the most Part, very properly exclude their Trustees from possessing any lucrative Office belonging to their respective Turnpikes, and also direct that their Meetings for the Transaction of Business shall be held at their own private Expence: and even when this may not be the Case, I think there are not many real Gentlemen, who would, for the Sake of pecuniary Emolument, descend to be the inferior Servants of their brother Trustees, or who would give their Attendance merely for the Sake of a Dinner paid for with Money which ought to be applied to maintain the Road. Trustees may, therefore, I believe, be fairly exculpated from the Charge of acting on the Principle of immediate Self-service; and I wish they could be as fairly exculpated from the Charge of acting

acting on the Principle of improperly serving others. The Name *Trustee* implies a *Trust*; and every Man who bears it should inflexibly reject the most importunate Solicitations of Tenants, Neighbours, or Dependants, for Favours incompatible with his Obligation to those who have intrusted him *, There are many

* The Road from *Colchester* to *Harwich*, as being a principle Avenue of Communication between *England* and *Holland*, &c. one should naturally suppose to be, at least, a spacious well-beaten old fashioned Road. In the Autumn of 1776, I made an Excursion into the North East Part of *Essex*, and travelling this Road, to my great Surprize, met with several Miles of dirty Lane with deep Ruts, and Grass growing between those Ruts and the Quarter; to my greater Surprize I came to a Turnpike-gate and found it open, without any Gate-keeper or other Person to demand Toll. A Circumstance so uncommon, naturally produced an Enquiry after the Cause, and the Account I obtained of it was this: That some Persons, interested in the Navigation of the *Maningtree* Channel, on Application from certain Farmers, who grudged the Tolls in the Way to their Wharfs, had procured the Gates to be thrown open. By what Means this Matter was accomplished, or how it was contrived to satisfy the Creditors of the Trust, I know not. I have travelled several Hundred Miles in different Parts of this Nation, but never met with such another Instance; and, indeed, I hope this has not its Parallel. With regard to another Part of this very Road, I was told that if I did not watch the Opportunity of the Tide being out, I must travel a Mile or Two in Water up to the Axle of my Carriage. "*Fore-warned, fore armed*," says the old Proverb. I did watch the Opportunity, and escaped Immersion in Salt Water; but I saw as I passed, that a commodious and delightful Road, above the Reach of the Tide, might easily be made along the adjacent Fields, and I apprehend, at no very extraordinary Expence, for to Appearance the Ground was of little Value. But the Shore is Sand, and of Course makes a *natural Road*, that costs nothing to maintain: the Sand, however, is so heavy, that

many Cases wherein it will be highly necessary for Trustees to exercise impartial Judgment, and immoveable Resolution; but in none, perhaps, so much as in the Choice of Officers, particularly Surveyors. I have already given some oblique Hints on this Matter, but cannot satisfy myself without a more explicit Explanation. The Post of Surveyor is, indeed, a Post of such Consequence to a Road, that the Ideas of Integrity and Capability, are the alone Ideas that should be annexed to the Man who offers himself as Candidate for it. Partiality from Family Connexion, or personal Attachment, should never be suffered to operate in Favour of an incompetent Pretender*. Charity is a most amiable Virtue, and the Practice of it, I hope never justly to be accused of discountenancing; but even Charity in this Case should not be suffered to prevail over Prudence. The Indigent, who is of Rank rather superior to the miserable Residence and Subsistence of a parochial Workhouse, is a truly pitiable Object, and the Humane will always wish to assist him;

that the Gentry, who are "*bent on Speed*," cannot well drive over it in a hurry; or if they attempt to do so, woe to the poor Horses that draw them.

* I well remember an Instance, several Years ago, of a Surveyor who, from Meeting to Meeting, used to run the Gauntlet of Censure for Neglect of Duty; a Reprimand here, and a Menace there, from one End of the Table to the other: he bore it with great Equanimity, without attempting Justification, or making Submission; for he knew he had Friends who, though they found Fault with him, would endeavour to keep him in the Office. He was dismissed at last for a flagrant Breach of Trust.

but

but still he should be assisted in such a Manner as is consistent with Propriety, and placed in a Station for which he is in some Measure qualified. I believe such Trustees as are most earnest to provide a Maintenance for their poor Favourites, by recommending them to Offices they are unfit for, would start at the Thought of giving to those very Favourites a sine-cure Salary from the Income of their Tolls. Yet, in this Case, they would, in fact, detriment the Public less than in the other: in this Case, there would be only a Misappropriation of a small Portion of Money; in the other, there is not only the same Misappropriation, but the additional Injury of a total Neglect of the Road under the erroneous Supposition that it is taken Care of.

Of how much Importance soever, I may deem the Honesty and Ability of a Surveyor, I would not, by any Means, be misunderstood, as if I thought Masters in this Case, any more than in others, should place an implicit Dependence on their Servants. Among such a Number of Gentlemen, as the List of Trustees of every Turnpike contains, it may be supposed, that there must be some one or more sufficiently intelligent, on Examination of a Road, to discover in what Respect it is defective, and to direct in what Mode it should be improved; and such, I think, would do nothing more than their Duty, in making such Examination a Part of the Amusement of their leisure Hours. But if no such Person can be found, or, if found, will not be generous enough to devote a small Portion of his Time to the Business, the

best Advice I can give Trustees in that Predicament is, to have their Roads annually surveyed at the Expence of the Trust, by some Gentleman who makes the Construction and Improvement of Roads his Profession, and who will both point out what is necessary to be done, and give Instructions how to do it.

One Circumstance more I shall take the Liberty to mention. Trustees would certainly find it greatly conducive to their Honour, and facilitative of their Business, to act with Liberality in their Contracts, and Punctuality in their Payments, particularly for Ground used in procuring Materials and widening Roads *. Public Advantage ought

* A Caution on this Subject I cannot think at all unnecessary : I do not *speake without Book* when I say, that I believe there is Occasion for it in many Places. Far be it from me to think that Trustees, in general, have the least Idea of defrauding People of their due ; but Aversion to Trouble, and Haste to get Business done, causes Neglect, so that Applications for Money are postponed from Time to Time, till the Matter is sometimes almost forgotten. I just now recollect a Case full to the Point in Question : some Years ago a Farmer had repeatedly applied for a trifling Sum due to him for the Rent of a Gravel-pit. There was no Dispute about the Propriety of the Debt ; but he had been referred from General Meetings to particular Committees ; and from particular Committees back to General Meetings : at last, wearied with Attendance, he declared that he would not give himself any further Trouble ; he should not pretend, he said, to sue a Body of Gentlemen, but would make them a Present of the Gravel. I earnestly requested that immediate Payment of his Demand might prevent his characterising the Trustees for bad Paymasters in every Ale-house he frequented. Trustees should not any more than Individuals submit to Imposition, but they should be generous : they need not be Drudges to their Duty, but they should be properly attentive : Generosity and Attention would frequently obviate many very disagreeable Difficulties, particularly in that very important Affair of widening Roads.

always

always to take Place of private Interest : no Person, therefore (as the Reader must have perceived), can be more anxious than myself for a full Possession of coercive Powers for the above mentioned Purposes ; but, at the same Time that the Community reaps Advantage, the Individual, by the forcible Alienation of whose Property that Advantage is procured, should surely be left without Reason to complain. What a man is necessitated to part with, he ought to be generously paid for, and that with as little Trouble of Application as possible. Repeated Attendances, without obtaining what a Person knows he has an undoubted Right to, must be excessively disagreeable; and, when it comes to be known that such fruitless Attendances have been given, there will be a general Reluctance to treating with Trustees on similar Occasions.

The foregoing Hints are not the Fruit of Study from Books, but the Result of actual Observation. They are modestly submitted to the Consideration of Trustees, &c. and, if they should in any Degree contribute to introduce a better Method of making and managing Roads than that which is in Use at present, I shall think myself well compensated for the Trouble of committing them to Paper.

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P O S T S C R I P T.

IN the preceding DIGESTS, I have given every Thing that *is now Law* respecting Highways and Turnpikes in general; but no Person can be absurd enough to expect me to answer for what *is to be Law*. The Reader, however, must have noticed my Hints, that an Alteration in the present Acts might probably soon render some Part of my Work of no Utility. My Design being not to mislead, but to inform, I think it necessary to apprize the Public, that a Bill is ordered to be brought into the House of Commons for the Purpose of repealing one of the few good Clauses contained in the Act of 13 Geo. III. Chap. 84. *viz.* the Clause for imposing Double Toll on all Wheels under the Breadth of Six Inches; which Clause, by 16 Geo. III. chap. 44. is to take place at *Michaelmas* next. Those therefore whom it may concern, are requested to advert to the Progress of the Bill above mentioned, and to remember, that in case it should pass into a Law, Sect. 2. Chap. IV. p. 155. of my Turnpike Digest, must not be regarded as a Rule of Action.

I know not what can be the Plea for repealing a Clause of which no general Complaint has been made, and the Advantages whereof are, at the present Juncture, so very evident in the gradual Introduction of Six-Inch Wheels. The Difference of Expence between a narrow Wheel and a Six-inch

B b

Wheel

POSTSCRIPT.

Wheel cannot be an Object of Consideration to any Purchaser who can afford to keep a Team; but the Difference between the Damage done to a Road by one, and by the other, is inconceivable. To say that the Use of Six-inch Wheels should not be imposed on the Farmers because they cannot pass in narrow Roads, is to say, that narrow Roads should not be amended. Where a narrow Wheel can pass, a very small Charge will make Room for a Six-inch Wheel to pass also.



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